

LOAN AGREEMENT

THIS LOAN AGREEMENT ("Agreement") is dated as of this 11th day of July, 2012 by and between the CITY OF REDLANDS, AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF REDLANDS, a public body corporate and politic ("Agency"), and the CITY OF REDLANDS, a California municipal corporation ("City"). Agency and City are sometimes referred to in this Agreement individually as a "Party" and together as the "Parties." This Agreement is entered into with reference to the following recitals of fact ("Recitals") that Agency and City believe to be true, as of the Effective Date of this Agreement:

RECITALS

A. Pursuant to the Community Redevelopment Law (Health and Safety Code section 33000 *et seq.*), the City Council of the City created the Redevelopment Agency of the City of Redlands.

B. On June 28, 2011, the State of California enacted Health and Safety Code section 34161 *et seq.* as part of the State's enactment of Assembly Bill 1X 26 ("AB 1X 26"), immediately prohibiting further redevelopment activity by redevelopment agencies and dissolving all redevelopment agencies in the State of California on October 1, 2011.

C. On July 18, 2011, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 which, among other things, challenged the constitutionality of AB 1X 26, on behalf of cities, counties and redevelopment agencies and requested a stay of enforcement of AB 1X 26, pending the Supreme Court's determination of the constitutionality of AB 1X 26.

D. On December 29, 2011, the Supreme Court issued its opinion in the above referenced case which, among other things, upheld AB 1X 26 and dissolved all redevelopment agencies throughout the State of California, effective February 1, 2012.

E. Pursuant to Health and Safety Code section 34173(d), the City of Redlands elected to become the successor agency to the dissolved Redevelopment Agency of the City of Redlands, confirmed by Resolution No. 7089 adopted on November 1, 2011.

F. On June 27, 2012, Assembly Bill 1484 ("AB 1484") was signed by the Governor of California which, among other things, significantly modifies AB 1X 26.

G. On July 11, 2012 the Agency received a demand for payment in the amount of \$2,601,269 (the "Payment") from the County of San Bernardino Auditor-Controller/Treasurer/Tax Collector pursuant to Health and Safety Code section 34183.5(b)(2)(A), as added by AB 1484.

H. The Agency has insufficient funds to make the Payment out of existing Agency funds, and the City Council has determined that the City will loan the Agency the amount of \$65,607.37 (the "Loan Amount") to facilitate making the full Payment.

I. Pursuant to Health and Safety Code section 34173(h), the City may loan or grant

funds to the Agency for administrative costs, enforceable obligations, or project-related expenses at the City's discretion.

J. The Parties now desire to enter into this Agreement to memorialize the terms and conditions of the City loan to the Agency for the Payment.

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Agency and City, the Parties agree as follows:

1. EFFECTIVE DATE.

1.1 Effective Date of Agreement. This Agreement is dated this 11th day of July, 2012 for reference purposes only. This Agreement shall not become legally effective or binding until the date on which all of the following are true ("Effective Date"):

1.1.1 This Agreement is ratified by the Governing Board of Agency and the City Council of City and executed by the authorized representatives of the Agency and City, respectively;

1.1.2 This Agreement is approved by the Oversight Board of the Agency; and

1.1.3 Pursuant to Health and Safety Code section 34179(h), written notice and information about the approval of this Agreement by the Oversight Board is provided to the State of California Department of Finance and this Agreement becomes effective five (5) business days after notice has been provided to the State of California Department of Finance, pending a request for review by the State of California Department of Finance.

2. LOAN.

2.1 Loan Amount. No later than 5:00 p.m. July 12, 2012, City shall loan the Loan Amount from the City Water Fund 501 to the City General Fund, as evidenced by a Promissory Note in substantially the form attached hereto as Exhibit "A." Upon execution of a Promissory Note and transfer of the Loan Amount from the City Water Fund 501 to the City General Fund, the Agency shall execute a Promissory Note in substantially the form attached hereto as Exhibit "B" and City shall loan the Loan Amount to Agency in immediately available funds.

2.2 Use of Loan Amount. The Loan Amount shall be used by Agency for the sole purpose of facilitating the Agency's Payment.

2.3 Repayment of Loan Amount. Agency agrees to repay the Loan Amount pursuant to the terms and conditions of this Agreement and the Promissory Note executed by Agency in substantially the form attached hereto as Exhibit "B."

2.4 Enforceable Obligation. Pursuant to Health and Safety Code section 34173(h), the Loan Amount shall be reflected on the Agency's January – June 2013 Recognized Obligation Payment Schedule and subsequent Recognized Obligation Payment Schedules and, upon approval

of this Agreement by the Oversight Board to the Agency, the repayment of the Loan Amount shall be deemed to be an enforceable obligation.

3. GENERAL TERMS.

3.1 Time Is Of The Essence. Time is of the essence in the performance of the Parties' obligations under this Agreement.

3.2 No Third Party Beneficiaries. This Agreement is expressly declared to be for the sole benefit of the Parties. No other person or entity not a signatory to this Agreement shall have any rights or causes of actions against any Party to this Agreement because of that Party's entry into this Agreement.

3.3 Assignment. City may not assign any of its rights or obligations under this Agreement without the prior express written consent of Agency, which may be given or withheld in Agency's sole and absolute discretion.

3.4 Failure to Strictly Enforce Not a Waiver. Failure by any Party to this Agreement to insist upon the strict performance of any provision of this Agreement at any one or more times shall not be deemed to constitute a waiver of that Party's right to insist upon strict performance of that or any other provision of this Agreement on future occasions. No alleged waiver of any right afforded to any Party under this Agreement shall be effective unless in writing.

3.5 Attorneys' Fees. In the event that any action or proceeding is commenced by either Agency or City against the other to interpret or enforce any provision of this Agreement, the prevailing Party in such action or proceeding shall be entitled to recover from the non-prevailing Party, in addition to all other relief to which the prevailing Party may be entitled, the prevailing Party's reasonable attorneys' fees and litigation costs, including fees for use of in-house legal counsel by a Party, as established by a court of law. Recoverable costs and fees shall include those incurred on appeal and in the enforcement of any judgment.

3.6 Amendments and Modifications. This Agreement may be amended only by written agreement of the Parties.

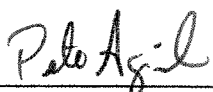
3.7 Severability. If any provision of this Agreement or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

[Signatures on Following Page]

SIGNATURE PAGE
TO
LOAN AGREEMENT

AGENCY:

CITY OF REDLANDS,
AS SUCCESSOR AGENCY TO THE
FORMER REDEVELOPMENT AGENCY
OF THE CITY OF REDLANDS
a public body, corporate and politic

By: 
Pete Aguilar, Chairman

CITY:

CITY OF REDLANDS
a California municipal corporation

By: 
Pete Aguilar, Mayor

ATTEST:

By: 
Sam Irwin, Secretary

ATTEST:

By: 
Sam Irwin, City Clerk

EXHIBIT A
TO
LOAN AGREEMENT

City Promissory Note

[Attached Behind This Cover Page]

**CITY OF REDLANDS
UNSECURED PROMISSORY NOTE**

FOR VALUE RECEIVED, this Unsecured Promissory Note is dated as of the 11th day of July, 2012 (“Promissory Note”) and evidences an indebtedness of the general fund of the City of Redlands (“Maker”) to the City of Redlands Water Fund 501 (“Holder”). For value received, Maker hereby promises to pay to the order of Holder, at such address as Holder shall designate, the amount of Sixty Five Thousand Six Hundred Seven and Thirty Seven One-Hundredths Dollars (\$65,607.37) (“Loan Amount”), with interest, in accordance with the terms of this Promissory Note.

1. **Unsecured Obligation.** The Maker’s obligations under this Promissory Note are not secured by any instrument encumbering any property or asset of Maker.

2. **Repayment of Promissory Note.** Maker shall pay to the order of Holder the Loan Amount, with interest accruing at the current Local Agency Investment Fund (LAIF) interest rate of 0.38% percent per annum, as follows:

2.1 Maker promises to pay to the order of Holder the Loan Amount, with interest, over five (5) years. The first installment shall be paid during the period of January 2013 – June 2013, if sufficient tax allocation is available. Subsequent installments will be paid over multiple ROPS cycles as sufficient funds are available, with the unpaid balance of the Loan Amount to be paid no later than July 12, 2017 (“Maturity Date”).

2.2 All payments due hereunder are payable in lawful money of the United States in same day funds. The Loan Amount may be prepaid, in whole or in part, at any time and from time to time without penalty or premium.

2.3 The entire unpaid balance of the Loan Amount shall be due and payable, prior to the Maturity Date upon Maker’s material breach any of the obligations of this Promissory Note.

2.4 Maker’s obligation to pay the unpaid principal balance of the Loan Amount shall be limited to the available funds of Maker which are not otherwise encumbered as of the date of this Promissory Note.

3. **Assignment.** Holder shall have no power to transfer or assign its right to receive any payment under this Promissory Note, unless Maker has first granted written approval to Holder for such a proposed assignment, in the Maker’s sole and absolute discretion.

4. **Severability.** The unenforceability or invalidity of any provision or provisions of this Promissory Note as to any persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other person or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable.

5. **Governing Law.** The validity, interpretation and performance of this Promissory Note shall be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of laws principles.

6. **Jurisdiction and Venue.** The Holder and the Maker acknowledge and stipulate that the obligation hereunder was entered into in the County of San Bernardino, California. Any legal action or proceeding to interpret, enforce, or which in any way arises out of this Promissory Note shall be instituted and prosecuted in the appropriate court in the County of San Bernardino, California. Holder and Maker expressly waive, to the maximum legal extent, any legal right either Party may have to have such action or proceeding transferred to or prosecuted in any other court or jurisdiction.

7. **Amendments and Modifications.** This Promissory Note may be amended or modified only in writing signed by the Holder and the Maker.

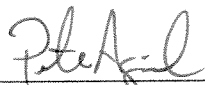
8. **Time of the Essence.** Time is of the essence of this Promissory Note.

[Signatures on Following Page]

SIGNATURE PAGE
TO
CITY OF REDLANDS
UNSECURED PROMISSORY NOTE

MAKER:

CITY OF REDLANDS,
a California municipal corporation

By: 
Pete Aguilar, Mayor

Date: 7/11/12

ATTEST:

By: 
Sam Irwin, City Clerk

EXHIBIT B
TO
LOAN AGREEMENT

Successor Agency Promissory Note

[Attached Behind This Cover Page]

PROMISSORY NOTE

\$65,607.37

July 11, 2012
Redlands, California

For value received, the Successor Agency to the former Redevelopment Agency of the City of Redlands (the "Borrower") promises to pay to the **CITY OF REDLANDS**, a public body, corporate and politic (the "City"), at the City's office at 35 Cajon Street, Redlands, California 92373, or such other place as the City may designate in writing, the principal sum of Sixty Five Thousand Six Hundred Seven and Thirty Seven One Hundredths Dollars (\$65,607.37) (the "Note Amount"), in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. Interest. Simple interest shall accrue upon the Note Amount at the rate of thirty-eight one hundredths of one percent (0.38%) per annum upon such obligation, fully amortized over the term (the "Term") ending as of June 30, 2017 (the "Maturity Date"); excepting that in the event of the occurrence of any Event of Default, interest shall thereupon accrue at the rate of ten percent (10%) per annum (provided that in the event such interest rate exceeds the maximum interest which may be lawfully charged, then this Note shall be deemed to instead provide for interest to be charged at the highest interest rate that may be charged pursuant to applicable laws).

2. Repayment of Note Amount. Payment shall be due in full, including accrued interest, on the Maturity Date. If the Note is not paid upon the Maturity Date, the failure to make the payment shall be an event of default by the Borrower. There shall not be a penalty if the Note is paid in full prior to the Maturity Date.

3. Waivers.

(a) The Borrower expressly agrees that this Note, or any payment hereunder, may be extended from time to time at the sole discretion of the City Manager and that the City may accept security in consideration for any such extension or release any security for this Note at its sole discretion, all without in any way affecting the liability of the Borrower.

(b) No extension of time for payment of this Note made by agreement by the City with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of the Borrower under this Note, either in whole or in part.

(c) The obligations of the Borrower under this Note shall be absolute and the Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

(d) The Borrower waives presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights of interests in or to properties securing of this Note, and the benefit of any exemption under any homestead exemption laws, if applicable.

(e) No previous waiver and no failure or delay by the City in acting with respect to the terms of this Note shall constitute a waiver of any breach, default, or failure or condition under this Note. A waiver of any term of this Note must be made in writing and shall be limited to the express written terms of such waiver.

4. Attorneys' Fees and Costs. The Borrower agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

5. Amendments and Modifications. This Note may not be changed orally, but only by an amendment in writing signed by the Borrower and by the City.

6. City May Assign. The City may, at its option, assign its right to receive payment under this Note without necessity of obtaining the consent of the Borrower.

7. Borrower Assignment Prohibited. In no event shall the Borrower assign or transfer any portion of this Note without the prior express written consent of the City, which consent may be given or withheld in the City's sole discretion.

8. Acceleration and Other Remedies. Upon the occurrence of the event of default set forth in Section 3 hereof, the City may, at the City's option, declare the outstanding principal amount of this Note, together with the then accrued and unpaid interest thereon and other charges hereunder, to be due and payable immediately, and upon such declaration, such principal and interest and other sums shall immediately become and be due and payable without demand or notice. All costs of collection, including, but not limited to, reasonable attorneys' fees may be added to the principal hereunder, and shall accrue interest as provided herein. Any delay or omission on the part of the City in exercising any right hereunder shall not operate as a waiver of such right, or of any other right. No single or partial exercise of any right or remedy hereunder shall preclude other or further exercises thereof, or the exercise of any other right or remedy. The acceptance of payment of any sum payable hereunder, or part thereof, after the due date of such payment shall not be a waiver of the City's right to either require prompt payment when due of all other sums payable hereunder or to declare an event of default for failure to make prompt or complete payment.

9. Consents. The Borrower hereby consents to: (a) any renewal, extension or modification (whether one or more) of the terms or time of payment under this Note, (b) the granting of any other indulgences to the Borrower, and (c) the taking or releasing of other or additional parties primarily or contingently liable hereunder. Any such renewal, extension, modification, release, surrender, exchange or substitution may be made without notice to the Borrower or to any endorser, guarantor or surety hereof, and without affecting the liability of said parties hereunder.

10. Successors and Assigns. Whenever "City" is referred to in this Note, such reference shall be deemed to include the City of Redlands and its successors and assigns, including, without limitation, any subsequent assignee or holder of this Note. All covenants, provisions and agreements by or on behalf of the Borrower shall inure to the benefit of the City and the City's successors and assigns.

11. Usury. It is the intention of the Borrower and the City to conform strictly to the Interest Law, as defined below, applicable to this loan transaction. Accordingly, it is agreed that

notwithstanding any provision to the contrary in this Note the aggregate of all interest and any other charges or consideration constituting interest under the applicable Interest Law that is taken, reserved, contracted for, charged or received under this Note shall under no circumstances exceed the maximum amount of interest allowed by the Interest Law applicable to this loan transaction. If any excess of interest in such respect is provided for in this Note, then, in such event:

(a) The provisions of this paragraph shall govern and control;

(b) Neither the Borrower nor the Borrower's, legal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest allowed by the Interest Law applicable to this loan transaction;

(c) Any excess shall be deemed canceled automatically and, if theretofore paid, shall be credited on this Note by the City or, if this Note shall have been paid in full, refunded to the Borrower; and

(d) The effective rate of interest shall be automatically subject to reduction to the Maximum Legal Rate of Interest (as defined below), allowed under such Interest Law, as now or hereafter construed by courts of appropriate jurisdiction. To the extent permitted by the Interest Law applicable to this loan transaction, all sums paid or agreed to be paid to the City for the use, forbearance or detention of the indebtedness evidenced hereby shall be amortized, prorated, allocated and spread throughout the full term of this Note. For purposes of this Note, "Interest Law" shall mean any present or future law of the State of California, the United States of America, or any other jurisdiction which has application to the interest and other charges under this Note. The "Maximum Legal Rate of Interest" shall mean the maximum rate of interest that the City may from time to time charge Borrower, and under which the Borrower would have no claim or defense of usury under the Interest Law.

12. Miscellaneous. Time is of the essence hereof. This Note shall be governed by and construed under the laws of the State of California except to the extent Federal laws preempt the laws of the State of California. The Borrower irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of California for the County of San Bernardino, in connection with any legal action or proceeding arising out of or relating to this Note. The Borrower also waives any objection regarding personal or *in rem* jurisdiction or venue.

BORROWER:

**SUCCESSOR AGENCY TO THE FORMER
REDEVELOPMENT AGENCY OF THE CITY
OF REDLANDS**

By: _____

Name: Pete Aguilar

Its: Chairperson

ATTEST:



Sam Irwin, City Clerk