

OVERSIGHT BOARD RESOLUTION NUMBER OB-2013-12

A RESOLUTION OF THE OVERSIGHT BOARD FOR CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING (i) THE FIFTH RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JANUARY THROUGH JUNE 2014, DESIGNATED AS ROPS 13-14B, (ii) THE SIX-MONTH ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY CORRESPONDING TO ROPS 13-14B, AND (iii) CERTAIN ASSOCIATED ACTIONS.

WHEREAS, the former Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, in accordance with Assembly Bill x1 26 (AB 26), the Former RDA dissolved as of February 1, 2012, at which time the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), assumed the Former RDA's assets and obligations; and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and Assembly Bill 1484 (AB 1484), enacted on June 27, 2012 (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board has been formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Laws; and

WHEREAS, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance (DOF) also possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, pursuant to California Health and Safety Code (HSC) section 34177(l), Successor Agency staff must prepare a Recognized Obligation Payment Schedule (ROPS) on a forward-looking basis for each six-month fiscal period, showing the payments to be made toward enforceable obligations and the funding source for the payments, including, without limitation, the Redevelopment Property Tax Trust Fund (RPTTF); and

WHEREAS, Successor Agency staff has prepared the proposed fifth ROPS covering the period from January 1, 2014 through June 30, 2014, also known as ROPS 13-14B under the DOF's present naming convention, based on the DOF's new mandatory electronic template first distributed to Successor Agency staff on August 15, 2013; and

WHEREAS, the new template for ROPS 13-14B requires detailed data to be entered in each of various columns in a specified format before ROPS 13-14B can be electronically "validated" and submitted to the DOF; and

WHEREAS, ROPS 13-14B consists of the Microsoft Excel multi-page spreadsheet in the DOF's mandatory electronic template, showing proposed payments by the Successor Agency toward enforceable obligations for the ROPS 13-14B period, as well as the reconciliation of estimated versus actual payments made by the Successor Agency during the prior six-month ROPS 3 period covering January 1, 2013 through June 30, 2013, and this spreadsheet is included as Attachment A to the Staff Report accompanying this item (Staff Report); and

WHEREAS, ROPS 13-14B also consists of a document entitled "Successor Agency's Additional Explanation of Notes and Reservation of Rights" which has become necessary due to space limitations in the DOF's mandatory electronic template and contains similar text compared to the footnotes in the ROPS for each prior six-month fiscal period, and this document is included as Attachment B to the Staff Report; and

WHEREAS, the DOF's new template for ROPS 13-14B is substantially different in format from the template required by the DOF in connection with each prior ROPS, including ROPS 13-14A most recently; and

WHEREAS, at the time of the DOF's transmittal of the new ROPS template, Successor Agency staff had substantially completed the draft ROPS 13-14B using the previous, now outdated template for ROPS 13-14A (also known as ROPS 4); and

WHEREAS, since late August 2013, Successor Agency staff has worked diligently to transfer the data for hundreds of enforceable obligations from the older ROPS template to the new template and to add substantial new information called for in the new template, and this process has been extremely time-consuming; and

WHEREAS, as described in the Staff Report, all of the basic data has been transferred to the new ROPS template, but Successor Agency staff continues to "fine-tune" certain aspects of ROPS 13-14B through certain adjustments, such as: (i) verification of items in the ROPS 3 reconciliation spreadsheet showing estimated versus actual payments during the ROPS 3 period; (ii) identification of the type of each enforceable obligation corresponding to a list provided by the DOF; (iii) completion of the columns in ROPS 13-14B showing the commencement date and termination date of each enforceable obligation; (iv) completion of a new Report of Fund Balances that summarizes available funding from prior ROPS periods, including reconciliation of exact expenditure and retention amounts from prior ROPS periods; and (v) completion of the Summary sheet for ROPS 13-14B, including the tabulation of non-RPTTF sources of funding for the payment of enforceable obligations during the ROPS 13-14B period (collectively, the Pending ROPS Adjustments); and

WHEREAS, all contracts and agreements between the City and the Former RDA that are included in ROPS 13-14B were made for legitimate redevelopment purposes and will be of benefit to the taxing entities; and

WHEREAS, HSC section 34171(d)(1)(F) confirms that contracts necessary for the administration or operation of the Successor Agency, including, but not limited to, agreements concerning litigation expenses related to assets or obligations, settlements and judgments, and agreements related to the costs of maintaining assets prior to disposition, are enforceable obligations; and

WHEREAS, HSC section 34177.3(b) states that the Successor Agency may create new enforceable obligations to conduct the work of winding down the Former RDA's operations, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance; and

WHEREAS, similar to prior ROPS approved by the Oversight Board and the DOF, ROPS 13-14B includes a line item for costs, up to an aggregate maximum of \$500,000 during the applicable six-month period, that the Successor Agency may incur, above and beyond the costs estimated in specific line items in ROPS 13-14B, for management and security of properties and other assets, and unforeseen litigation and claims; and

WHEREAS, similar to prior ROPS approved by the Oversight Board and the DOF, ROPS 13-14B also includes a line item for costs, up to an aggregate maximum of \$500,000 during the applicable six-month period, that the Successor Agency may incur, above and beyond the costs estimated in specific line items in ROPS 13-14B, in order to wind down the Former RDA's operations in an orderly fashion and to avoid or minimize liabilities, including, but not limited to, exposure to claims or litigation; and

WHEREAS, with respect to the two above-described line items in ROPS 13-14B, the additional costs that may be incurred by the Successor Agency are not yet identified under an existing contract with a specific payee; and

WHEREAS, HSC section 34191.4(c) allows the Successor Agency to expend non-housing bond proceeds in a manner consistent with the underlying bond covenants, even if such bond proceeds were not contractually committed for a specific purpose before enactment of AB 26, so long as the DOF has issued a finding of completion to the Successor Agency pursuant to HSC section 34179.7; and

WHEREAS, the Successor Agency has included several line items in ROPS 13-14B reflecting the proposed expenditure of excess non-housing bond proceeds because it is presently anticipated that the Successor Agency will obtain the finding of completion by the end of 2013, before the commencement of the ROPS 13-14B time period; and

WHEREAS, HSC section 34177(m) requires the Successor Agency to obtain the Oversight Board's approval of ROPS 13-14B and to submit ROPS 13-14B to the DOF by October 1, 2013, and subjects both the City and the Successor Agency to specified civil penalties in the event that ROPS 13-14B is not timely submitted to the DOF; and

WHEREAS, the anticipated date for the County Auditor's semi-annual distribution of property taxes generated in the redevelopment project areas to the Successor Agency and local taxing entities with respect to ROPS 13-14B is January 2, 2014 (ROPS Distribution Date); and

WHEREAS, HSC section 34177(m) provides the DOF with a 45-day review period on ROPS 13-14B, during which the DOF will make a determination on the amount of enforceable obligations and the proposed funding sources and may eliminate or modify any item on ROPS 13-14B prior to its approval; and

WHEREAS, based on HSC section 34177(m), the Successor Agency may, within five business days after the DOF's determination on ROPS 13-14B, request additional review by the DOF and an opportunity to meet and confer with the DOF on disputed items in ROPS 13-14B, and the DOF must notify the Successor Agency and the County Auditor regarding the outcome of its additional review at least 15 days before the ROPS Distribution Date; and

WHEREAS, HSC section 34182.5 enables the County Auditor to deliver written notice at least 60 days before the ROPS Distribution Date, objecting to the inclusion of any items in ROPS 13-14B that are not demonstrated to be enforceable obligations, and further enables the Oversight Board, in response to the County Auditor's objection, to refer any disputed item in ROPS 13-14B to the DOF for a determination of what will be approved for inclusion in ROPS 13-14B; and

WHEREAS, HSC section 34177(j) requires the Successor Agency to prepare, and to submit to the Oversight Board for approval, an administrative budget for each upcoming six-month fiscal period, estimating the administrative costs to be expended during the applicable fiscal period, identifying the proposed sources of payment for such administrative costs, and identifying proposed arrangements for administrative and operations services provided by a city or other entity; and

WHEREAS, Successor Agency staff has prepared a proposed six-month Administrative and Project Management Budget for the Successor Agency covering the period of January 1, 2014 through June 30, 2014 (ROPS 13-14B Administrative Budget), a copy of which is included as Attachment C to the Staff Report; and

WHEREAS, the ROPS 13-14B Administrative Budget includes the total amount of \$3,506,000, of which \$1,906,000 is allocated to administrative costs and \$1,600,000 is allocated

to project-specific costs and litigation costs, as such categories of costs are described in HSC section 34171(b); and

WHEREAS, the ROPS 13-14B Administrative Budget contemplates the Successor Agency's payment of funds to the City in exchange for the provision of certain services by the City and a City-owned nonprofit public benefit corporation, namely Civic San Diego, related to winding down the Former RDA's affairs; and

WHEREAS, the Oversight Board's decisions regarding approval of ROPS 13-14B and the ROPS 13-14B Administrative Budget will not become effective until after those decisions have been approved or deemed approved by the DOF in accordance with HSC sections 34177(m) and 34179(h), subject to the outcome of any meet-and-confer process on ROPS 13-14B initiated by Successor Agency staff with the DOF.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

1. ROPS 13-14B is hereby approved.
2. Before submitting ROPS 13-14B in final form to the DOF, Successor Agency staff is authorized, with the approval of the Oversight Board's Chair and the Oversight Board's legal counsel, to make any necessary adjustments to ROPS 13-14B due to delays associated with the DOF's recent provision of a new mandatory electronic template for the ROPS, provided that the substantive content of ROPS 13-14B remains substantially the same and provided further that any adjustments are consistent with the scope of the Pending ROPS Adjustments disclosed by Successor Agency staff during the Oversight Board meeting held on September 24, 2013.
3. The ROPS 13-14B Administrative Budget is hereby approved.
4. The Successor Agency is authorized to make payments in accordance with the ROPS 13-14B Administrative Budget, utilizing the funding sources identified therein.

5. The Successor Agency is authorized to enter into services contracts, management contracts and similar contracts, and amendments to existing contracts of that nature, for items that are budgeted in the approved ROPS 13-14B, consistent with HSC sections 34171(d)(1)(F) and 34177.3(b).

6. The Successor Agency is authorized to enter into contracts, and amendments thereto, for the expenditure of excess non-housing bond proceeds that are budgeted in the approved ROPS 13-14B, as permitted by HSC section 34191.4(c), upon the Successor Agency's receipt of a finding of completion pursuant to HSC section 34179.7.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on September 24, 2013. The Oversight Board approved this Resolution through bifurcated motions, due to the recusal of three board members from voting on individual line items showing San Diego Gas & Electric and/or Sempra Energy as the payee of, or involved party in, an enforceable obligation in ROPS 13-14B. The first motion involved the approval of all action items in this Resolution, except for line items 219, 310, and 320 in ROPS 13-14B. The Oversight Board approved the first motion by a 7-0 vote. The second motion involved solely the approval of line items 219, 310, and 320 in ROPS 13-14B. The Oversight Board approved the second motion by a 4-0 vote, with Chair Nelson and Board Members Stapleton and Davies abstaining from the vote due to a potential conflict that they each noted on the record.



Chair, Oversight Board