

OVERSIGHT BOARD RESOLUTION NUMBER OB-2015-10

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING THE FIFTH AMENDMENT TO THE AGREEMENT WITH RIGHT WAY LANDSCAPING FOR MAINTENANCE AND LANDSCAPING SERVICES ON SUCCESSOR AGENCY PROPERTIES

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) enacted on June 28, 2011, 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 required to administer the winding down of the Former RDA's operations and to ensure compliance with the Former RDA's obligations in accordance with AB 26, as subsequently amended (collectively, the Dissolution Laws); and

WHEREAS, the Dissolution Laws specify that the Oversight Board and the California Department of Finance (DOF) must review and approve certain actions and decisions of the Successor Agency, including the Successor Agency's approval of each Recognized Obligation Payment Schedule (ROPS); and

WHEREAS, among other things, each ROPS shows the estimated payments owed by the Successor Agency to third parties for enforceable obligations during the upcoming six-month period and identifies the funding sources that will be used to make such payments; and

WHEREAS, the Oversight Board's adopted resolution approving prior ROPS included language that authorized the Successor Agency 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 (Authorization for Services Contracts), consistent with California Health and Safety Code (HSC) sections 34171(d)(1)(F) and 34177.3(b); and

WHEREAS, although the DOF had approved the Oversight Board's Authorization for Services Contracts with respect to prior ROPS time periods, the DOF issued a letter dated November 8, 2013 (November 2013 Letter) which effectively requires the Oversight Board and the DOF to approve all post-AB 26 services contracts, management contracts and similar contracts, and post-AB 26 amendments to existing contracts of that nature, that will involve the Successor Agency's expenditure of funds; and

WHEREAS, one amendment affected by the November 2013 Letter is the Fifth Amendment to the Agreement (Amendment) with Right Way Landscaping (Consultant), which involves the expenditure of ROPS-approved funds in an amount not to exceed \$245,000 for maintenance of Successor Agency properties; and

WHEREAS, a copy of the Amendment is included as Attachment A to the Staff Report dated August 17, 2015 accompanying this item (Staff Report); and

WHEREAS, the DOF issued a letter dated April 1, 2014, interpreting the Dissolution Laws to mean the Oversight Board must find that any post-AB 26 contract amendment for the provision of services is in the best interests of the local taxing entities in accordance with HSC section 34181(e) or that the contract amendment, including any increase in compensation and extension of termination date, is necessary for the administration or operation of the Successor Agency in accordance with HSC section 34171(d)(1)(F); and

WHEREAS, the Amendment will benefit the local taxing entities and will be in their best interests, in that it will permit the Successor Agency to fulfill important public safety obligations

to maintain and upkeep Successor Agency properties through certain maintenance services as more particularly described in the Staff Report; and

WHEREAS, such maintenance will minimize risk or liability to Successor Agency as it will: (a) decrease the chance of injury to persons from dilapidated structures; (b) remedy the unsafe and unsightly condition of such properties, thereby stabilizing property values; (c) ensure compliance of such sites with local and state regulations related to property safety and site maintenance regulations; (d) facilitate alleviation of blight in the communities in which such properties are located; and (e) permit the Successor Agency to retain tenants on properties until such time as those properties are disposed of in accordance with the Successor Agency's Long-Range Property Management Plan (PMP); and

WHEREAS, the Amendment involves an increase in compensation and extension of termination date in order to allow the continued use of the Consultant's services until such time as the Successor Agency disposes of its properties in accordance with its PMP; and

WHEREAS, the Amendment is necessary for the operation or administration of the Successor Agency because it permits the Successor Agency to fulfill its obligation to maintain the Successor Agency assets in accordance with local, State and Federal laws and it reduces the Successor Agency's exposure to liability for damages, fines, or other penalties that could be pursued against the Successor Agency for its failure to maintain Successor Agency properties; and

WHEREAS, the Successor Agency, or Civic San Diego as the contracting agent on its behalf, will pay for the services performed under the Amendment utilizing the funding sources shown in line item 319 of the ROPS.

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

1. The Board finds, in accordance with HSC section 34181(e), that the Amendment is in the best interests of the local taxing entities.

2. The Board finds, in accordance with HSC section 34171(d)(1)(F), that the provision of services under the Amendment, including any increase in compensation and extension of termination date, is necessary for the administration or operation of the Successor Agency.

3. The Amendment is hereby approved.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on August 17, 2015.



Chair, Oversight Board