



January 4, 2012

Mr. Allen Jones, Deputy Chief of Staff
City of San Diego
202 C Street, 11th Floor
San Diego, CA 92101

Dear Mr. Jones:

Subject: Determination of Oversight Board Actions

The City of San Diego Successor Agency (Agency) notified the California Department of Finance (Finance) of its November 20, 2012 Oversight Board (OB) Resolutions No. OB-2012-34, OB-2012-35, and OB-2012-36 on November 26, 2012. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB actions.

Based on our review and application of the law, our review noted the following:

Resolution No. OB-2012-34 allowing temporary access to successor agency properties for special events is not permitted. HSC section 34177.3 (a) prohibits an Agency from creating a new enforceable obligation. HSC section 34171 (d) (1) (E) defines an enforceable obligation as any legally binding agreement. The Right of Entry permit is a legally binding agreement in which the agency is not allowed to enter. Furthermore, HSC section 34163 (b) prohibits an Agency from entering into a contract with any entity after June 27, 2011.

Resolution No. OB-2012-35 pertaining to certain contracts and expenditures related to the Horton Plaza Park Improvements is not permitted. The original Owner Participation Agreement (OPA) discusses the plan to improve and develop the Horton Plaza Retail Center. The resolution increases the amount required for the Agency to provide for development. HSC section 34163 (c) prohibits an Agency from amending or modifying existing agreements, obligations, or commitments with any entity for any purpose after June 27, 2011; therefore, this resolution not permitted.

Resolution No. OB-2012-36 approving the first amendment to the OPA for Market Creek Plaza is approved. This is our determination with respect to the OB action taken. It is our understanding Resolution No. OB-2012-36 will reduce the scope of the project including reducing the Agency's reimbursement obligation from \$3.8 million to \$2.4 million and reducing the site from 19 acres to 6.5 acres. HSC section 34181 (e) allows the OB to amend or terminate contracts if doing so would be in the best interest of the taxing entities.

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As authorized by HSC section 34179 (h), Finance is returning your OB action to the board for reconsideration.

Please direct inquiries to Wendy Griffe, Supervisor, or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Jeff Graham, President, Civic San Diego
Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego County
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, San Diego County
California State Controller's Office