

CORPORATION REPORT

November 19, 2013

Department of Finance (DOF) Communications and Updates:

1. On October 31, 2013, the DOF issued its final determination letter regarding the Successor Agency's non-housing due diligence review. This letter was issued following staff's presentation of evidence and additional legal arguments to the DOF during a meet-and-confer session. The DOF made numerous adjustments to the Due Diligence Report (DDR), which was prepared by the outside accounting firm of Macias, Gini and O'Connell that resulted in a payment demand to the county of \$165.9 million, a 165% increase from the \$62.8 million reflected in the DDR report.

Approximately \$34.7 million of the DOF's adjustments were to sweep the reserves set aside for bond debt service in the Recognized Obligation Payment Schedule (ROPS) 3 that were not spent. Approximately \$21.1 million of the DOF's adjustments were "claw backs" for payments made by the Successor Agency to the City of San Diego ("City") during the first half of calendar year 2012 related to the invalidated Petco Park, Convention Center, and other City loan repayment agreements. Contrary to previous ROPS, the DOF now denied and "clawed back" the Successor Agency's payments to the City related to the Community Development Block Grant (CDBG) and Section 108 loans.

All of the \$165.9 million owed to the County of San Diego ("County") is available in Successor Agency reserve accounts, with the exception of approximately \$21 million, which will be loaned by the City to the Successor Agency related to the amounts "clawed back" by the DOF for Petco Park, the Convention Center, CDBG, Section 108, and other loans.

Of the \$165.9 million paid to the County, the City will receive approximately 21% or \$34.9 million as a tax sharing entity. The net benefit to the City, after adjusting for the \$21 million loan to the Successor Agency is approximately \$13.8 million. Those funds may be needed for future potential "claw backs."

2. On November 8, 2013, the DOF issued a determination letter related to ROPS 13-14b, which covers payments on enforceable obligations for the period of January 1 through June 30, 2014. The DOF contradicted its previous approval of the CDBG and Housing and Urban Development (HUD) section 108 loan repayments, and denied those repayment agreements as enforceable obligations. This denial results in a loss to the City's CDBG program of \$78.8 million. HUD is assisting staff and the City by attempting to reach a state-wide settlement agreement with the DOF that will try to preserve CDBG loan repayment agreements. The City Attorney will also be briefing the City Council in December 2013 on its other legal options.

The DOF also denied the use of non-housing bond proceeds to begin implementation of public improvement and redevelopment projects until the Successor Agency receives its

finding of completion. Since the finding of completion is expected to be received in December 2013, staff is rebutting that these funds should be freed for use during the ROPS 13-14b time period.

The DOF denied the lease payment related to Civic San Diego's ("CivicSD") office space as a separate enforceable obligation and contends it should be included in the 3% administrative fee. Finally, the DOF denied a \$500,000 contingency line item that it had approved on prior ROPS that provided staff with a mechanism for paying unexpected, but essential services that could not have been foreseen or amounts accurately forecasted.

Staff has submitted a request to the DOF for a meet-and-confer session related to the denied ROPS items and is waiting for a scheduling date from the DOF.

3. A second letter was received from the DOF on November 8, 2013 related to the Successor Agency's ability to enter into contracts and service agreements related to enforceable obligations. The DOF letter now requires that all new agreements, or amendments to existing agreements, related to an approved item on a ROPS, must now be approved by the Oversight Board and the DOF prior to being executed. This new policy will significantly delay and complicate the implementation of many projects and the ongoing property management of many Successor Agency real estate assets.
4. The North Embarcadero Visionary Plan is a project being implemented by a Joint Powers Authority (JPA) comprised of the San Diego Unified Port District ("Port"), the City, and the Former Redevelopment Agency ("Former RDA") of the City. CivicSD represents the Former RDA's interests in the project and Board Chair Cynthia Morgan is CivicSD's appointed JPA member. Since the project is located on Port-controlled property along the downtown waterfront, they have taken the lead in the project's construction. Phase one of the project was funded primarily by downtown tax increment from the Former RDA with a repayment agreement from the Port for approximately 50% of the project's cost upon completion of the Lane Field development. Construction during phase one experienced significant delays due to the presence of underground utility lines that required relocation by various utility companies. Those delays, combined with greater than expected amounts of soil contamination, have led to cost overruns that could reach up to \$2.5 million. Due to the dissolution of redevelopment, additional tax increment financing is no longer an option for the project's additional funding needs.

Staff of the Port and CivicSD have proposed a variety of potential funding sources including soil remediations, grants, sponsorships, and the adoption of pavers and park furniture by members of the public. However, because the project will require additional funds by February 2013 or risk suspension of construction, there will be a delay between the need for funding and the receipt of funding. Therefore, the Port commissioners approved funding for the project's cost overruns in the amount of \$1.25 million or 50% of the potential shortfall. On November 8, 2013, the Port requested, via a letter to the Mayor, a similar commitment by the City until other funds can be secured

and received. CivicSD staff is working with the Mayor's office and other City staff to determine whether the City can match the Port's funding commitment to avoid a potential project delay.