



March 25, 2014

Mr. William Fulton, Director, Planning and Neighborhood Restoration Department
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101-4154

Dear Mr. Fulton:

Subject: Determination of Oversight Board Action

The City of San Diego Successor Agency (Agency) notified the California Department of Finance (Finance) of its February 11, 2014 Oversight Board (OB) resolution on February 11, 2014. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, the Agency's OB Resolution Number OB-2014-1 related to Reinstatement of a Cooperation Agreement with the City of San Diego (City) for payment of Phase II improvements at the San Diego Convention Center is not approved.

The Agency has submitted the Reinstated Cooperation Agreement on the basis that HSC section 34191 (a) (2) permits loan agreements entered into between the City and the Agency to be enforceable obligations under certain provisions. However, the Cooperation Agreement is not a loan; rather, it is an agreement to assume the debt obligations of the City. The City did not loan funds to the Agency for which the Agency has a contractual obligation for repayment; therefore, the provisions of HSC section 34191 (a) (2) do not apply.

As referenced in the original Cooperation Agreement between the City and the Agency, HSC section 33445 authorizes an Agency to pay all or part of the cost of construction of a publicly owned facility that is inside or contiguous to the project area. However, HSC section 33445 (b) (2) requires that the construction of the facility be provided for in the redevelopment plan. The Redevelopment Plan for the Centre City Redevelopment Project, last amended September 4, 2007, makes no mention of a convention center or related projects. Therefore, the agreement by the Agency to make payments on behalf of the City is not compliant with the intent of the legislation.

Further, HSC Section 34181 (d) states that the OB shall direct the Agency to terminate any agreement between the dissolved redevelopment agency and any public entity located in the same county that obligates the redevelopment agency to provide funding for any debt service obligations of the public entity in any instance where the OB has found that early termination would be in the best interests of the taxing entities.

As the original Cooperation Agreement was arranged solely for the purpose of the Agency providing funding for the debt service obligations of the City, and termination of the agreement would be in the best interest of the taxing entities since this was not an obligation of the Agency until such assumption of the debt, the OB should direct the Agency to terminate the Cooperation Agreement between the Agency and the City.

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,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Andrew Phillips, CFO, COO & Interim President of Civic San Diego
Mr. Jon Baker, Senior Auditor and Controller Manager, San Diego County
California State Controller's Office