

OVERSIGHT BOARD RESOLUTION NUMBER OB-2013-6

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING THE SETTLEMENT AGREEMENT AND RELEASE, AND APPROVING THE AGGREGATE SETTLEMENT PAYMENT OF \$1,990,000, RELATED TO A DISPUTE WITH THE FORMER OWNER OF THE PROPERTY LOCATED AT 1343-1345 MARKET STREET IN SAN DIEGO.

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 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 amended by Assembly Bill 1484 (AB 1484); and

WHEREAS, in or about 2004, the Former RDA began the process of assembling a redevelopment site (Site) of up to approximately 40,000 square feet on the south side of Market Street between 13th and 14th Streets in downtown San Diego; and

WHEREAS, Chris and Margaret LaFornara (collectively, LaFornaras) are the former owners of the real property located at 1343-1345 Market Street (Property), comprised of approximately 5,000 square feet of land associated with the assemblage of the Site; and

WHEREAS, the LaFornaras initiated legal claims against the Former RDA seeking damages for allegedly unreasonable pre-condemnation conduct, and those legal claims were

automatically transferred to the Successor Agency upon the Former RDA's dissolution pursuant to California Health and Safety Code section 34173(g); and

WHEREAS, representatives of the Successor Agency and the LaFornaras attended mediation on May 1, 2013 and executed a "Settlement Agreement" (Mediation Settlement Agreement) setting forth various settlement deal points between the parties, including the Successor Agency's payment of \$1,990,000, and contemplating the future execution of a more formal agreement to memorialize the settlement deal points in a traditional format; and

WHEREAS, Successor Agency staff promptly submitted the Mediation Settlement Agreement to the California Department of Finance (DOF) for consideration during the statutory meet-and-confer process on ROPS 13-14A covering payments to be made by the Successor Agency to third parties during the time period of July through December 2013; and

WHEREAS, the DOF had initially rejected a proposed settlement payment of up to \$2 million on Line Item No. 87 in ROPS 13-14A on the basis that the Successor Agency had not produced evidence of an actual settlement; and

WHEREAS, in a final determination letter regarding ROPS 13-14A dated May 17, 2013, the DOF noted its receipt of the Mediation Settlement Agreement and approved the settlement payment of \$1,990,000 during the ROPS 13-14A time period utilizing a distribution of funds from the Redevelopment Property Tax Trust Fund (RPTTF); and

WHEREAS, consistent with the Mediation Settlement Agreement, the Successor Agency and the LaFornaras have finalized the terms of the Settlement Agreement and Release, including exhibits thereto (Final Settlement Agreement), which will fully resolve the pending litigation between the Successor Agency and the LaFornaras; and

WHEREAS, the LaFornaras have signed the Final Settlement Agreement, and the San Diego City Council (i.e., the Successor Agency's governing board) has approved the deal points in the Final Settlement Agreement in closed session on May 21, 2013.

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

1. The Settlement Agreement (including the exhibits thereto), in the form included as Attachment D to the Staff Report accompanying this Resolution, is hereby approved.
2. The Successor Agency is authorized to utilize its RPTTF distribution for ROPS 13-14A to make settlement payments in the aggregate amount of \$1,990,000 in accordance with the Settlement Agreement, and consistent with Line Item No. 87 in ROPS 13-14A, as follows:
(a) \$1,100,000 to Margaret LaFornara; (b) \$233,000 to Chris LaFornara, and (c) \$657,000 to the LaFornaras' attorney, the law firm of Freeland, McKinley & McKinley.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on May 28, 2013.



Chair, Oversight Board