

OVERSIGHT BOARD RESOLUTION NUMBER OB-2013-9

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING A LOAN AGREEMENT TO ADDRESS THE FUNDING SHORTFALL FOR ADMINISTRATIVE COSTS DURING THE ROPS 3 TIME PERIOD OF JANUARY THROUGH JUNE 2013, AND AUTHORIZING INCLUSION OF THE LOAN AGREEMENT IN FUTURE RECOGNIZED OBLIGATION PAYMENT SCHEDULES.

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, the Oversight Board and the California Department of Finance (DOF) previously approved the third Recognized Obligation Payment Schedule covering the period of January through June 2013 (ROPS 3) and the related administrative budget for the ROPS 3 time period (ROPS 3 Budget), although the DOF rejected certain items asserted as enforceable obligations in ROPS 3 and made a corresponding substantial reduction in the 3% administrative cost allowance (3% Allowance) to the Successor Agency; and

WHEREAS, the DOF did not object to the ROPS 3 Budget of \$2,800,749, but only permitted the Successor Agency to expend funding sources of \$1,411,957, including \$923,380 in

the 3% Allowance and \$488,577 in reserve balances, for payment of administrative costs during the ROPS 3 time period; and

WHEREAS, as a result of the DOF's substantial reduction of the 3% Allowance and the DOF's reclassification of the Oversight Board's legal expenses as administrative costs to be paid from the 3% Allowance, the Successor Agency could have incurred a funding shortfall of up to \$1,638,792 for payment of administrative costs during the ROPS 3 time period, although the actual shortfall is now expected to be much lower; and

WHEREAS, the City and the Successor Agency filed a lawsuit in Sacramento County Superior Court on February 19, 2013, designated as Case No. 34-2013-80001411 (Lawsuit), against the DOF, the State Controller, and the County Auditor to challenge the disallowance of adequate funding sources for payment of the Successor Agency's administrative costs during the ROPS 3 time period; and

WHEREAS, on March 26, 2013, the court issued an order denying the Successor Agency's requested injunction (Court Order), accepting the DOF's argument that the Successor Agency could not show irreparable harm because California Health and Safety Code section 34173(h) allows the Successor Agency to obtain a temporary loan from the City to cover the funding shortfall and allows the City to seek repayment of the loan on a future ROPS; and

WHEREAS, in direct response to the Court Order and the DOF's related legal argument in the Lawsuit, the City and the Successor Agency have executed the "Loan Agreement for ROPS 3 Administrative Costs" (Loan Agreement) approved by the San Diego City Council effective June 27, 2013; and

WHEREAS, the Loan Agreement involves the City's loan of funds to the Successor Agency in an amount not to exceed \$1,638,792 (Loan Amount) to cover the funding shortfall for payment of administrative costs during the ROPS 3 time period; and

WHEREAS, under the Loan Agreement, the Successor Agency must identify the full repayment of the Loan Amount, plus accrued interest, as an enforceable obligation in ROPS 13-14B or any subsequent Recognized Obligation Payment Schedule (ROPS); and

WHEREAS, to the extent that the Oversight Board and the DOF approve the Successor Agency's repayment of the Loan Amount as an enforceable obligation in a future ROPS and that sufficient funds are transferred by the San Diego County Auditor-Controller to the Successor Agency from the Redevelopment Property Tax Trust Fund (RPTTF), the Loan Agreement requires the Successor Agency to repay the outstanding balance of the Loan Amount plus accrued interest to the City.

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

1. The Loan Agreement, in the form included as Attachment D to the Staff Report accompanying this Resolution, is hereby approved.
2. The Successor Agency is authorized to include the Loan Agreement on ROPS 13-14B (covering the first half of calendar year 2014), or any subsequent ROPS, as a method of enabling the City to be repaid fully on the Loan Amount from monies in the RPTTF.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on July 24, 2013.



Chair, Oversight Board