

OVERSIGHT BOARD RESOLUTION NUMBER OB-2014-58

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING THE STIPULATED SETTLEMENT WITH HEALTHCARE SERVICES, INC. AND THE SUCCESSOR AGENCY'S RECEIPT OF AGGREGATE SETTLEMENT PAYMENTS OF \$50,000.

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 subsequently amended; and

WHEREAS, the Successor Agency and Healthcare Services, Inc. (HSI) have agreed upon the terms of the Stipulation for Settlement of Claim and Conditional Entry of Judgment in the Event of Default (Stipulated Settlement) as a method to resolve cross-complaints filed by the Successor Agency against HSI in two pending lawsuits in San Diego County Superior Court, commonly referred to as the Hon and LaFornara matters, Case No. 37-2011-00090762 and Case No. 37-2011-00086995, respectively; and

WHEREAS, for at least ten years until early 2014, HSI operated a residential drug and alcohol treatment facility on the adjacent properties located at 1343-1345 Market Street and 528 and 542-544 14th Street in downtown San Diego (collectively, the Property), formerly owned by entities commonly referred to as Hon and LaFornara; and

WHEREAS, separate lawsuits by Hon and LaFornara for inverse condemnation against the Former RDA related to the Property were resolved by negotiated settlements in 2012 and 2013, respectively;

WHEREAS, notwithstanding those negotiated settlements, HSI remained in occupancy of the Property, and the Successor Agency's cross-claims against HSI remained unresolved; and

WHEREAS, HSI recently vacated the Property and moved its operation to a site on Rosecrans Street; and

WHEREAS, the Successor Agency sought damages against HSI in the cross-complaints estimated at \$715,128.21 under a best case scenario, mainly attributable to unpaid rent under existing leases between HSI and the former owners of the Property; and

WHEREAS, the Successor Agency may have faced some hurdles in proving these claims and in recovering any award of damages against HSI, which is a nonprofit entity not believed to possess significant assets or to generate significant net revenue; and

WHEREAS, the Stipulated Settlement will allow a full and final settlement of the Successor Agency's cross-complaints against HSI in the Hon and LaFornara lawsuits; and

WHEREAS, among other things, the Stipulated Settlement provides for a mutual general release of claims between the settling parties and requires HSI to pay the Successor Agency the aggregate sum of \$50,000, in ten incremental installments of \$5,000 each (without interest), by the end of 2014; and

WHEREAS, the Successor Agency will deposit all settlement payments into the Redevelopment Obligation Retirement Fund and will expend this money through the "Other Funds" category in a future Recognized Obligation Payment Schedule; and

WHEREAS, the Stipulated Settlement will not become an effective, binding obligation on the Successor Agency unless and until the Stipulated Settlement has been approved by

adopted resolution of the Oversight Board in accordance with California Health and Safety Code (Code) sections 34171(d)(1)(D) and 34179(e) and has been approved, or deemed approved, by the California Department of Finance in accordance with Code section 34179(h); and

WHEREAS, Code section 34171(d)(1)(D) states that an enforceable obligation includes judgments or settlements entered by a competent court of law, although the either the Successor Agency or the Oversight Board is authorized to appeal any judgment or to set aside any settlement; and

WHEREAS, the Stipulated Settlement will benefit the local taxing entities because it will allow the Successor Agency to resolve litigation that involves an uncertain outcome and some challenges related to proof of claims and collection of damages, and because it will avoid the expenditure of significant legal expenses.

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

1. The Stipulated Settlement, in the form included as Attachment A to the Staff Report dated April 17, 2014 accompanying this Resolution, is hereby approved.
2. The Board approves the Successor Agency's receipt of payments in the aggregate amount of \$50,000 in accordance with the Stipulated Settlement, and the deposit of such payments into the Redevelopment Obligation Retirement Fund, in full settlement of the existing dispute with HSI related to the Property.

**PASSED AND ADOPTED** by the Oversight Board at a duly noticed meeting of the Oversight Board held on April 21, 2014.

  
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Chair, Oversight Board