

OVERSIGHT BOARD RESOLUTION NUMBER OB-2014-63

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING A LOAN AGREEMENT FOR PAYMENT OF ONGOING EXPENSES FOR LANDSCAPE ESTABLISHMENT PROGRAM, 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 subsequently amended (collectively, the Dissolution Laws); and

WHEREAS, the Dissolution Laws specify that the Oversight Board and the California Department of Finance (DOF) must review and approve certain actions and decisions of the Successor Agency, including the Successor Agency's approval of each Recognized Obligation Payment Schedule (ROPS); and

WHEREAS, each ROPS shows the estimated payments owed by the Successor Agency to third parties for enforceable obligations during the upcoming six-month period and identifies the funding sources that will be used to make such payments, including the Redevelopment Property Tax Trust Fund (RPTTF) and excess bond proceeds, among other funding sources; and

WHEREAS, California Health and Safety Code (Code) section 34173(h) provides that the City may, at its discretion, grant or loan funds to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses of the Successor Agency, and that such City loan can be qualified as an enforceable obligation of the Successor Agency if the repayment of the loan is reflected in an approved ROPS; and

WHEREAS, the Oversight Board's adopted resolution approving prior ROPS included language that authorized the Successor Agency to enter into services contracts, management contracts and similar contracts, and amendments to existing contracts of that nature, for items that are budgeted in the approved ROPS (Authorization for Services Contracts), consistent with Code sections 34171(d)(1)(F) and 34177.3(b); and

WHEREAS, although the DOF had approved the Oversight Board's Authorization for Services Contracts with respect to prior ROPS time periods through ROPS 13-14A, the DOF issued a letter dated November 8, 2013 (November 2013 Letter) rejecting the Authorization for Services Contracts for the first time in connection with expenditures during the ROPS 13-14B time period (January through June 2014); and

WHEREAS, the November 2013 Letter effectively requires the Oversight Board and the DOF to approve all post-AB 26 services contracts, management contracts and similar contracts, and post-AB 26 amendments to existing contracts of that nature, that will involve the Successor Agency's expenditure of funds in the ROPS 13-14B time period and beyond; and

WHEREAS, to comply with the November 2013 Letter, the Successor Agency has recently presented, for approval by the Oversight Board and the DOF, various new contracts and new amendments to existing contracts that will involve the Successor Agency's expenditure of funds in the ROPS 13-14B time period and beyond; and

WHEREAS, of relevance to this Resolution, the Oversight Board adopted resolutions for service contract amendments on February 11, 2014, and again on April 21, 2014, including resolutions approving the second and third amendments to an existing agreement with Urban Corps of San Diego County (Urban Corps) for property management and related landscaping activities in the City's redevelopment project areas located outside of downtown San Diego (collectively, Service Contract Amendments); and

WHEREAS, in a letter dated May 16, 2014, the DOF approved the Service Contract Amendments as enforceable obligations, but indicated that these obligations are eligible to be funded with excess bond proceeds and that RPTTF should be requested only to the extent that no other funding is available; and

WHEREAS, it is anticipated that the services provided by Urban Corps under the Service Contract Amendments will include, among other things, continued work on the landscape establishment program (Landscaping Program) initiated by the Former RDA (through Southeastern Economic Development Corporation) to establish and ensure the viability of the trees and landscaping at three streetscape locations in southeastern San Diego for a period of up to five years until the streetscapes are established; and

WHEREAS, the Landscaping Program is not eligible for payment from the RPTTF because it is a program created jointly by the City and the Former RDA, but the Landscaping Program is eligible for funding using the Successor Agency's excess non-housing bond proceeds because the Successor Agency obtained the finding of completion from the DOF on December 2, 2013, and is now permitted to expend these bond proceeds under Code section 34191.4(c); and

WHEREAS, the excess bond proceeds needed to pay expenses for the Landscaping Program are not budgeted in ROPS 14-15A (July through December 2014), but will be budgeted in ROPS 14-15B (January through June 2015); and

WHEREAS, pending receipt of the City's loan, the Successor Agency has halted the Landscaping Program, but the prompt reinstatement of the Landscaping Program is necessary in order to avoid any further disruption and the resulting loss of significant taxpayer investment in new trees and plants in and along the new streetscape improvements; and

WHEREAS, the use of excess non-housing bond proceeds toward the Landscaping Program qualifies as a new enforceable obligation under Code section 34191.4(c), given that the Successor Agency obtained the finding of completion from the DOF on December 2, 2014; and

WHEREAS, the City has determined to loan up to \$25,000 (Loan Amount) to the Successor Agency to allow payments to Urban Corps under the Service Contract Amendments through the end of the ROPS 14-15A time period (i.e., until December 31, 2014) related to work performed on the Landscaping Program; and

WHEREAS, the City's loan will bridge a six-month gap of time until the beginning of the ROPS 14-15B time period, when it is anticipated that the Successor Agency will be able to fund the work on the Landscaping Program using excess bond proceeds shown on ROPS 14-15B; and

WHEREAS, the Successor Agency will commit to repay the Loan Amount to the City, subject to the terms and conditions of the proposed Loan Agreement for Payment of Ongoing Expenses for Landscape Establishment Program (Loan Agreement); and

WHEREAS, under the Loan Agreement, the City will disburse the Loan Amount to the Successor Agency in installments as needed by the Successor Agency to pay to make payments to Urban Corps under the Service Contract Amendments through the end of the ROPS 14-15A time period related to work performed on the Landscaping Program; and

WHEREAS, the Loan Agreement contemplates that the Successor Agency will identify the Loan Agreement, including the full repayment of the Loan Amount plus accrued interest, as

an enforceable obligation on the seventh ROPS covering the period of January through June 2015 (ROPS 14-15B); and

WHEREAS, the Loan Agreement further contemplates that, commencing with ROPS 14-15B and continuing with each successive ROPS, the Successor Agency will request an allocation of excess bond proceeds for repayment of any portion of the Loan Amount that has been disbursed by the City and has not yet been repaid to the City; 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 ROPS 14-15B utilizing excess bond proceeds, the Loan Agreement requires the Successor Agency to repay the outstanding balance of the Loan Amount plus accrued interest to the City as soon as possible after the commencement of the applicable ROPS time period.

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

1. The Loan Agreement, in the form included as Attachment B to the Staff Report dated July 3, 2014 accompanying this Resolution, is hereby approved.
2. The Successor Agency is authorized to include the Loan Agreement on ROPS 14-15B (covering the first half of calendar year 2015), and any subsequent ROPS, as a method of enabling the City to be repaid fully on the Loan Amount from excess bond proceeds.

**PASSED AND ADOPTED** by the Oversight Board at a duly noticed meeting of the Oversight Board held on July 9, 2014.

  
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Chair, Oversight Board