

OVERSIGHT BOARD RESOLUTION NUMBER OB-2014-83

A RESOLUTION OF THE OVERSIGHT BOARD FOR CITY OF
SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY
APPROVING THE AGREEMENT REGARDING
EXPENDITURE OF EXCESS REDEVELOPMENT BOND
PROCEEDS AND RELATED ACTIONS.

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 winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, Assembly Bill 1484, enacted on June 27, 2012, and subsequent legislation (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board has been formed to oversee certain actions and decisions of the Successor Agency in accordance with the Dissolution Laws; and

WHEREAS, the San Diego County Auditor-Controller (County Auditor), the State Controller, and the State Department of Finance (DOF) also possess certain rights and obligations under the Dissolution Laws with respect to the Successor Agency's administration of the Former RDA's operations; and

WHEREAS, pursuant to California Health and Safety Code (Code) section 34177(l), Successor Agency staff must prepare a Recognized Obligation Payment Schedule (ROPS) on a

forward-looking basis for each six-month fiscal period, showing the payments to be made toward enforceable obligations and the funding source for the payments; and

WHEREAS, consistent with California Health and Safety Code (Code) section 34179.7, the DOF issued a finding of completion to the Successor Agency on December 2, 2013, signifying the Successor Agency's completion of three lump-sum payments of unencumbered funds to the County Auditor for pro rata distribution to the local taxing entities; and

WHEREAS, Code section 34191.4(c)(1) authorizes the Successor Agency, as the recipient of a finding of completion, to use certain unencumbered bond proceeds for the purposes for which the bonds were sold; and

WHEREAS, under Code section 34191.4(c)(2), the Successor Agency may designate the use of, and commit all bond proceeds that were derived from, bonds issued for non-housing redevelopment purposes on or before December 31, 2010 that remain available after the satisfaction of approved enforceable obligations (Excess Bond Proceeds); and

WHEREAS, Code section 34191.4(c)(2) allows the Successor Agency to create excess bond proceeds obligations for purposes consistent with the original bond covenants, to be paid from Excess Bond Proceeds, and requires the Successor Agency to list excess bond proceeds obligations separately on the ROPS; and

WHEREAS, the Successor Agency possesses Excess Bond Proceeds (i.e., pre-2011 non-housing redevelopment bond proceeds) in the estimated total amount of \$60,721,656; and

WHEREAS, the estimated amount of Excess Bond Proceeds includes proceeds shown in the Successor Agency's cash balance report as of June 30, 2014, at the end of the ROPS 13-14B time period, and does not reflect the potential expenditure of proceeds during the current ROPS

14-15A time period or the potential defeasance of certain proceeds related to two downtown parking garages during the upcoming ROPS 14-15B time period; and

WHEREAS, the Successor Agency desires to provide the Excess Bond Proceeds to the City to enable the City to use such funds, in a manner consistent with the basic purposes for which the bonds were sold, to undertake redevelopment projects, activities, and programs that were not previously funded and obligated by the City and the Successor Agency or that are currently in progress under existing contracts and need to be completed in a timely fashion; and

WHEREAS, the City and the Successor Agency now propose to enter into the Agreement Regarding Expenditure of Excess Redevelopment Bond Proceeds (Agreement) to accomplish the Successor Agency's transfer of the Excess Bond Proceeds to the City and the City's expenditure of the Excess Bond Proceeds in accordance with the Bond Spending Plan included as Exhibit 2 to the Agreement; and

WHEREAS, the Agreement is intended to create an excess bond proceeds obligation under Code section 34191.4(c)(2), to be paid from the Excess Bond Proceeds, and is identified in line item 620 of ROPS 14-15B covering the time period of January through June 2015; and

WHEREAS, the basic purposes of the Agreement will be to extract the Excess Bond Proceeds from the rigid six-month ROPS payment structure, to enable bond-funded projects to proceed without the risk of ROPS-driven delays and disruptions, to facilitate the City's approval of routine design and construction contracts for bond-funded projects without the need for approval of every contract by the Oversight Board and the DOF, and to allow the City or its designees, such as Civic San Diego, to provide the staffing and management of the bond-funded projects in a more efficient manner; and

WHEREAS, the Agreement will benefit the local taxing entities by streamlining the completion of various public improvements serving the local community, which in turn will improve and increase the local tax base, including property and sales and uses taxes; and

WHEREAS, under Section 5 of the Agreement, the City must promptly deposit all Excess Bond Proceeds into a dedicated account or accounts separate from the City's General Fund, and must use the Excess Bond Proceeds in accordance with the Bond Spending Plan and solely in a manner consistent with the basic purposes for which the bonds were sold and the applicable provisions of the California Community Redevelopment Law; and

WHEREAS, Section 5 of the Agreement allows the City, in its sole discretion, to modify the Bond Spending Plan to allow the transfer of funds between projects, activities, and programs so long as sufficient Excess Bond Proceeds are available and the transfer is consistent with applicable laws and the basic purposes for which the bonds were sold; and

WHEREAS, unless the City expressly agrees otherwise, the City will not be obligated to provide funding for any project, activity, or program in an amount greater than the Excess Bond Proceeds transferred to the City under the Agreement; and

WHEREAS, under Section 8 of the Agreement, the Successor Agency will assign to the City (subject to any contractual restrictions on assignment), and the City will assume, any contracts executed by the Successor Agency or the Former RDA related to activities to be funded by the Excess Bond Proceeds; and

WHEREAS, at the City's option, the assignment of any contract may involve only a partial assignment of the contractual payment obligation, which will be payable by the City from the Excess Bond Proceeds; and

WHEREAS, the Agreement will become effective only if the Oversight Board and the DOF approve the Agreement as an excess bond proceeds obligation and approve the transfer of Excess Bond Proceeds to the City per line item 620 of ROPS 14-15B; and

WHEREAS, if the Oversight Board and the DOF grant these approvals, the Successor Agency anticipates transferring the Excess Bond Proceeds to the City in early January 2015.

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

1. The Board finds that the Agreement Regarding Expenditure of Excess Redevelopment Bond Proceeds (Agreement) will benefit the local taxing entities by streamlining the completion of various public improvements serving the local community, which in turn will improve and increase the local tax base, including property and sales and uses taxes.
2. Subject to Paragraph 3 below, the Board approves the Agreement as an excess bond proceeds obligation, consistent with Code section 34191.4(c)(2).
3. The Board's approval of the Agreement is subject to the condition that, notwithstanding Section 5 of the Agreement, no new projects may be added to the Bond Spending Plan (Exhibit 2 to the Agreement) in the future unless the Board first adopts a resolution approving the inclusion of such new projects in the Bond Spending Plan.

4. The Board approves the Successor Agency's assignment or partial assignment to the City, consistent with Section 8 of the Agreement, of any contracts executed by the Successor Agency or the Former RDA related to activities to be funded by the Excess Bond Proceeds.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on October 1, 2014.



Chair, Oversight Board