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(R-2013-58)
REV. COPY

RESOLUTION NUMBER R- 307598

DATE OF FINAL PASSAGE JUL 31 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, ACTING IN ITS CAPACITY AS THE BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, AUTHORIZING AND RATIFYING THE PRIOR PAYMENT OF THE TRUE-UP AMOUNT OF \$89,644,450.71 TO THE SAN DIEGO COUNTY AUDITOR-CONTROLLER UTILIZING UNCOMMITTED TAX INCREMENT RESERVE BALANCES OF THE SUCCESSOR AGENCY, AS REQUIRED BY ASSEMBLY BILL 1484.

WHEREAS, from its formation in 1958 until its elimination on February 1, 2012, the 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 there are presently fourteen such project areas; and

WHEREAS, the Former RDA dissolved as of February 1, 2012, in accordance with a deadline for elimination of all redevelopment agencies throughout California set forth in Assembly Bill 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011, in litigation designated as Case No. S194861; and

WHEREAS, at the time of the Former RDA's dissolution, the City, in its capacity as the successor agency to the Former RDA (Successor Agency), became vested with all of the Former RDA's authority, rights, powers, duties, and obligations under the California Community Redevelopment Law and, by operation of law, received all assets, properties, contracts, leases, books and records, buildings, and equipment of the Former RDA; and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and Assembly Bill 1484 (AB 1484), enacted on June 27, 2012; and

WHEREAS, among other things, AB 1484 instituted a one-time "true-up" process, as described in California Health and Safety Code section 34183.5, allowing the immediate recapture from each successor agency of any excess distributions of tax increment revenue that were made to each former redevelopment agency shortly before its dissolution under AB 26, based on the premise that such excess distributions are not needed by the successor agency to pay enforceable obligations; and

WHEREAS, the State Department of Finance has interpreted California Health and Safety Code section 34183.5 to mean that each successor agency must make an immediate true-up payment to the local county auditor-controller equal to the amount of tax increment distributions made by the county auditor-controller to the former redevelopment agency from late 2011 to early 2012, less the amount of a cash distribution to the successor agency from the Redevelopment Property Tax Trust Fund (RPTTF) shown on the first Recognized Obligation Payment Schedule covering the period from January 1, 2012 through June 30, 2012 (ROPS 1), less the amount of any pass-through payments shown on ROPS 1 made by the successor agency to local taxing entities for the 2011-2012 fiscal year; and

WHEREAS, California Health and Safety Code section 34183.5(b) requires each county auditor-controller to calculate the amount of the true-up payment owed by each successor agency and to submit a written demand for the true-up payment by July 9, 2012, requires each successor agency to make the full true-up payment to the county auditor-controller by July 12, 2012, and

requires the county auditor-controller to make a pro rata distribution of the true-up funds to the local taxing entities by July 18, 2012; and

WHEREAS, California Health and Safety Code section 34183.5(b) seeks to subject a successor agency and its counterpart city to severe penalties, including the assessment of late payment penalties on both the successor agency and the city, as well as the withholding of sales and use tax from the city, in the event that the successor agency fails to make a full, timely payment of the true-up amount; and

WHEREAS, on July 9, 2012, the San Diego County Auditor-Controller (County Auditor) submitted a written demand to the Successor Agency for a true-up payment of \$89,644,450.71, which the County Auditor calculated by subtracting the RPTTF distribution amount of \$3,298,968 shown on ROPS 1 and a service fee of \$131,459.94 from the pre-dissolution distribution of \$93,074,878.65 in tax increment revenue to the Former RDA; and

WHEREAS, the Successor Agency disputed the method of calculation used by the County Auditor in arriving at the amount of the true-up payment, but the Successor Agency made the full true-up payment to the County Auditor on July 12, 2012, under protest and with a full reservation of rights, in order to avoid incurring the severe penalties under California Health and Safety Code section 34183.5(b); and

WHEREAS, in two prior resolutions, including Council Resolution No. R-307238 adopted effective January 12, 2012, and Successor Agency Resolution No. R-307276 adopted effective February 17, 2012, the City Council delegated authority to the Mayor or designee to take various actions and to implement various steps required in accordance with State law related to the winding down of the Former RDA's affairs; and

WHEREAS, the Council reaffirms that those prior resolutions are sufficiently broad enough to have authorized Successor Agency staff's actions in making the true-up payment to the County Auditor, as required by AB 1484; and

WHEREAS, the immediate deadline for the true-up payment effectively prevented Successor Agency staff from presenting this action item to the Council before the payment deadline on July 12, 2012; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, acting in its capacity as the board of the Successor Agency, that all actions taken by the Mayor, the Chief Financial Officer or designee to appropriate and expend funds, utilizing uncommitted tax increment reserve balances of the Successor Agency, to make the true-up payment of \$89,644,450.71 to the County Auditor on July 12, 2012, under protest and with a full reservation of rights, are hereby authorized and ratified.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch
Kevin Reisch
Deputy City Attorney

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07/20/12
07/24/12 Rev.Copy
Or.Dept: Mayor
Doc. No. 405573

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 23 2012

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 7.31.12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor