

Item 5400 4/8/13
(R-2013-571) Sub
Item C

RESOLUTION NUMBER R- 308076

DATE OF FINAL PASSAGE APR 10 2013

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 THE ACCEPTANCE OF UNEXPENDED COOPERATION AGREEMENT FUNDS FROM THE CITY

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

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 x1 26 (AB 26), as modified by the California Supreme Court in a final opinion issued on December 29, 2011; 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 (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, prior to the enactment of the Dissolution Laws, the City and the Former RDA entered into that certain Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects dated February 28, 2011 (Original Cooperation Agreement), pursuant to Resolution No. R-306632 adopted by the Council and Resolution No. R-04618 adopted by the Former RDA's board of directors; and

WHEREAS, the Original Cooperation Agreement, as subsequently modified by the First Amendment dated March 11, 2011, the Second Amendment dated March 15, 2011, and the Third Amendment dated August 8, 2011 (collectively, the Amended Cooperation Agreement), requires the Former RDA to transfer specified funds to the City in annual installments for the City's use in implementing various redevelopment projects, activities and programs on the Former RDA's behalf throughout the City's redevelopment project areas; and

WHEREAS, since March 2011, the Former RDA has transferred substantial funds to the City in accordance with the Amended Cooperation Agreement; and

WHEREAS, the Dissolution Laws purport to invalidate, on a retroactive basis, agreements between a former redevelopment agency and its sponsoring city, subject to limited exceptions; and

WHEREAS, the Dissolution Laws require the Successor Agency to prepare and submit, for approval by the Oversight Board and the DOF, the Recognized Obligation Payment Schedule (ROPS) on a forward-looking basis, showing payments to be made by the Successor Agency to third parties in accordance with enforceable obligations during each six-month period; and

WHEREAS, the DOF did not object to the inclusion of the Amended Cooperation Agreement as an enforceable obligation in the Enforceable Obligation Payment Schedule, as amended (which applied prior to the Former RDA's dissolution), or in the first ROPS covering the period of January through June 2012, or the second ROPS covering the period of July through December 2012; and

WHEREAS, in a revised final determination letter dated December 27, 2012, the DOF objected to the inclusion of the Amended Cooperation Agreement as an enforceable obligation in the third ROPS covering the period of January through June 2013 (ROPS 3), and concluded that the Amended Cooperation Agreement has been retroactively invalidated by operation of the Dissolution Laws; and

WHEREAS, the Council has decided not to initiate litigation to challenge the DOF's rejection of the Amended Cooperation Agreement in ROPS 3; and

WHEREAS, concurrent with the adoption of this Resolution, the Council has adopted a resolution authorizing the City's transfer to the Successor Agency of all unexpended Cooperation Agreement funds (including accrued interest) in the City's possession, in the approximate amount of \$99,379,536; and

WHEREAS, the Successor Agency must obtain possession of the unexpended Cooperation Agreement funds in order to make any payments owed to the County Auditor as a result of a two-part due diligence review of the Successor Agency's account balances under the Dissolution Laws; 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 the City Comptroller is authorized to accept the City's

transfer to the Successor Agency of all unexpended Cooperation Agreement funds (including accrued interest) in the City's possession, in the approximate amount of \$99,379,536.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Kevin Reisch
Kevin Reisch
Deputy City Attorney

KR:nja
04/04/13
Or.Dept: Civic San Diego
Doc. No. 533256
Comp. R-2013-568, R-2013-569, R-2013-570

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 8 2013

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 4/10/13
(date)

[Signature]
BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor