

#331
01/09/18

(R-2018-257)

RESOLUTION NUMBER R- 311496

DATE OF FINAL PASSAGE JAN 11 2018

A RESOLUTION OF THE 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, (i) APPROVING THE TWELFTH RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JULY 1, 2018, THROUGH JUNE 30, 2019 (ROPS 12), (ii) APPROVING AN ADMINISTRATIVE BUDGET FOR THE ROPS 12 FISCAL YEAR, AND (iii) AUTHORIZING THE MAYOR AND CHIEF FINANCIAL OFFICER TO CARRY OUT CERTAIN RELATED ACTIONS.

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 *California Redevelopment Assn. v. Matosantos*, 53 Cal.4th 231 (2011); and

WHEREAS, pursuant to Resolution R-307238 adopted by the City Council effective January 12, 2012, the City, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), elected to serve as the successor agency to the Former RDA, and the City also elected to serve as housing successor to the Former RDA in order to retain housing assets and assume housing responsibilities; and

WHEREAS, at the time of the Former RDA's dissolution on February 1, 2012, the 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 operations in accordance with AB 26, enacted on June 28, 2011, Assembly Bill 1484, enacted on June 27, 2012, and subsequent related legislation (collectively, the Dissolution Laws); and

WHEREAS, the Oversight Board was formed pursuant to California Health and Safety Code (Code) section 34179 to oversee certain actions and decisions of the Successor Agency under 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 winding down the Former RDA's operations; and

WHEREAS, pursuant to Code section 34177(o), Successor Agency staff must prepare a Recognized Obligation Payment Schedule (ROPS) on a forward-looking basis, showing the payments to be made toward enforceable obligations and the funding sources for the payments during the upcoming fiscal year; and

WHEREAS, Successor Agency staff has prepared the proposed twelfth ROPS covering the fiscal year beginning July 1, 2018, and ending June 30, 2019 (ROPS 12), also known as ROPS 18-19, a copy of which is included as Attachment A to Staff Report No. CSD-17-03 dated January 3, 2018 (Staff Report); and

WHEREAS, as required by the DOF, ROPS 12 reflects the DOF's previous final determinations that certain items listed in prior ROPS are not enforceable obligations and cannot

be paid using redevelopment funds in the future, although certain text in the “Notes” spreadsheet of ROPS 12 and the “Additional Explanation of Notes and Reservation of Rights” document (Additional Notes) for ROPS 12 (included as Attachment B to the Staff Report) reserve the right of the Successor Agency and the City to continue objecting to aspects of the DOF’s determinations in prior ROPS with which the Successor Agency or the City disagree; and

WHEREAS, the DOF is requiring use of an updated electronic template for submission of ROPS 12, but the DOF did not provide the Successor Agency with access to this updated template until early December 2016; and

WHEREAS, Successor Agency staff has prepared ROPS 12 with the DOF’s updated template for ROPS 12, but may need to update certain factual information and correspondingly adjust the Notes spreadsheet or the Additional Notes in the future for various line items in ROPS 12; and

WHEREAS, Code section 34177(o) requires the Successor Agency to obtain the Oversight Board’s approval of ROPS 12 and submit ROPS 12 to the DOF by February 1, 2018, and subjects both the City and the Successor Agency to specified civil penalties in the event that ROPS 12 is not timely submitted to the DOF; and

WHEREAS, the anticipated dates for the County Auditor’s semi-annual distributions of property taxes generated in the redevelopment project areas to the Successor Agency and local taxing entities with respect to ROPS 12 are June 1, 2018, and January 2, 2019 (each, a ROPS 12 Distribution Date); and

WHEREAS, Code section 34177(o)(1) requires the DOF to review ROPS 12 and make a determination of enforceable obligations and proposed funding sources in ROPS 12 no later than April 15, 2018; and

WHEREAS, Code section 34177(o)(1) further provides that the Successor Agency may, within five business days after the DOF's initial determination on ROPS 12, request additional review by the DOF and an opportunity to meet and confer with the DOF on disputed items in ROPS 12, and the DOF must notify the Successor Agency and the County Auditor regarding the outcome of its additional review at least 15 days before the first ROPS 12 Distribution Date; and

WHEREAS, Code section 34182.5 enables the County Auditor to deliver written notice, at least 60 days before the first ROPS 12 Distribution Date, objecting to the inclusion of any items in ROPS 12 that are not demonstrated to be enforceable obligations, and further enables the Oversight Board, in response to any such County Auditor objection, to refer any disputed ROPS 12 item to the DOF for a determination of what will be approved for inclusion in ROPS 12; and

WHEREAS, Code section 34177(j) requires the Successor Agency to prepare, and submit to the Oversight Board for approval, an administrative budget for each six-month fiscal period, estimating the administrative costs to be expended during the applicable six-month fiscal period, identifying the proposed sources of payment for such administrative costs, and identifying proposed arrangements for administrative and operations services provided by the City or any other entity; and

WHEREAS, Successor Agency staff has prepared a proposed Annual Administrative and Project Management Budget for the Successor Agency, comprised of two six-month budgets for July 1, 2018, through December 31, 2018, and January 1, 2019, through June 30, 2019, respectively, covering the entire ROPS 12 time period (collectively, the ROPS 12 Budget), a copy of which is included as Attachment C to the Staff Report; and

WHEREAS, the ROPS 12 Budget includes administrative costs in the total amount of \$2,124,994; and

WHEREAS, the ROPS 12 Budget contemplates the Successor Agency's payment of funds to the City in exchange for the provision of certain services by the City and a City-controlled nonprofit public benefit corporation, namely Civic San Diego, related to winding down the Former RDA's operations; and

WHEREAS, Code section 34179(p) states that decisions made by the Oversight Board, within its purview, will supersede decisions made by the Successor Agency or its staff; and

WHEREAS, the Oversight Board's decision regarding approval of ROPS 12 will not become effective until after the decision has been approved or deemed approved by the DOF in accordance with Code sections 34177(o) and 34179(h); and

WHEREAS, it is thus assumed for purposes of this Resolution that any modifications to ROPS 12 made by the Oversight Board or the DOF will be binding on the Successor Agency, subject to the outcome of any meet-and-confer process on disputed items in ROPS 12 initiated by Successor Agency staff with the DOF; and

WHEREAS, under Code section 34179(h)(1)(B), the Oversight Board's decision regarding approval of the administrative costs in the ROPS 12 Budget will become effective immediately, without any need for review by the DOF; 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, as follows:

1. The Successor Agency approves ROPS 12, covering the fiscal year beginning July 1, 2018, and ending June 30, 2019, which shall be placed on file in the office of the City Clerk as Document No. RR- 311496.

2. The Mayor, or designee, is authorized and directed, on the Successor Agency's behalf, to take all actions necessary and appropriate to carry out and implement the purposes of this Resolution and to fulfill all of the Successor Agency's statutory obligations with respect to ROPS 12, including, but not limited to: (a) submitting ROPS 12 to the Oversight Board, the County Administrative Officer, the County Auditor, the State Controller, and the DOF; (b) posting ROPS 12 on the Successor Agency's internet website; (c) making any necessary adjustments and adding factual information to ROPS 12, including the Notes spreadsheet or the Additional Notes, to conform to the DOF's updated mandatory ROPS template, provided that the substantive content of ROPS 12 remains substantially the same as approved by the Successor Agency; and (d) requesting additional review by the DOF of disputed items in ROPS 12, after receipt of the DOF's initial determination on ROPS 12, and engaging in a meet-and-confer process with the DOF on disputed items in ROPS 12, as may be deemed by the Mayor, or designee, to be in the best interests of the Successor Agency or the City, or both.

3. The Chief Financial Officer is authorized to appropriate and expend funds as needed in accordance with ROPS 12, contingent upon approval of ROPS 12 by the Oversight Board and the DOF.

4. The Successor Agency adopts the ROPS 12 Budget, which shall be placed on file in the office of the City Clerk as Document No. RR- 311496-2.

5. The Mayor, or designee, is authorized and directed, on the Successor Agency's behalf, to take all actions necessary and appropriate to fulfill all of the Successor Agency's statutory obligations with respect to the ROPS 12 Budget.

6. The Chief Financial Officer is authorized to appropriate and expend funds as needed in accordance with the ROPS 12 Budget, utilizing the funding sources identified therein, contingent upon approval of the ROPS 12 Budget by the Oversight Board.

7. The Successor Agency and the City reserve all legal rights and remedies with respect to the approval and implementation of ROPS 12 and the ROPS 12 Budget. The actions taken in this Resolution are not intended as, and shall not constitute, a waiver by the Successor Agency or the City of any of their rights to challenge the validity or effectiveness of all or any portion of the Dissolution Laws through administrative or judicial proceedings.

APPROVED: MARA W. ELLIOTT, City Attorney

By Kevin Reisch
Kevin Reisch
Senior Chief Deputy City Attorney

KJR:nja
12/19/17
Or.Dept: Civic San Diego
Doc. No.: 1647945

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 09 2018.

ELIZABETH S. MALAND
City Clerk

By: Atty Brady
Deputy City Clerk
Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Approved: 1/10/18
(date)

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JAN 09 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 11 2018

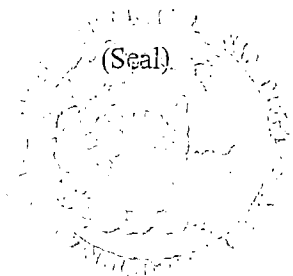
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Ginda Brwin*, Deputy



Office of the City Clerk, San Diego, California
Resolution Number R- 311496