

ITEM 6

OVERSIGHT BOARD FOR CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY

DATE ISSUED: 09/11/2012

SUBJECT: Report from the Successor Agency regarding request for authorization to consent to or approve refinancing, loan modifications, or loan subordinations that will not have any substantial adverse impact on the Successor Agency's financial interests.

CONTACT/PHONE NUMBER: David Graham/236-6980

DESCRIPTIVE SUMMARY OF ITEM:

Adoption of a resolution:

Authorizing the Successor Agency to consent to or approve refinancing, loan modifications, and loan subordinations pursuant to enforceable obligations, and to execute all related documents, if the proposed refinancing, loan modification, and loan subordination will not have any substantial adverse impact on the Successor Agency's financial interests.

STAFF RECOMMENDATION:

Approve proposed action.

DISCUSSION:

Background

The Successor Agency is in the process of winding down the operations of the former Redevelopment Agency of the City of San Diego ("Former RDA") in accordance with Assembly Bill xl 26 (the "Dissolution Act"), enacted on June 28, 2011, and Assembly Bill 1484 ("AB 1484"), enacted on June 27, 2012 (collectively, the "Dissolution Laws"). On January 10, 2012, the City Council designated the City of San Diego ("City") to serve as the Successor Agency to the Former RDA for purposes of winding down the Former RDA's operations.

At the Oversight Board meeting of May 31, 2012, the Oversight Board approved the Second Recognized Obligation Payment Schedule covering the period from July 2012 to December 2012 (ROPS 2). On August 28, 2012, the Third Recognized Obligation Payment Schedule (ROPS 3), covering the period from January 1 through June 30, 2013, was approved by the Oversight Board.

Subsequent to that approval, as part of the state budget package, on June 27, 2012, the Legislature passed and the Governor signed AB 1484, the primary purpose of which was to make technical and substantive amendments to the Dissolution Act based on experience to date at the state and local level implementing the Dissolution Act. AB 1484 in several ways clarifies the role of a Successor Agency to conduct certain activities and also authorizes a Successor Agency to perform activities not expressly stated in the Dissolution Act.

One such clarification, set forth in Health and Safety Code Section 34177(c), provides clear authority for the Successor Agency to perform obligations required pursuant to any enforceable obligation. However, in some cases, the Successor Agency must exercise some limited discretion as to whether to grant approval or consent for certain actions to be taken pursuant to an enforceable obligation. While Section 34177(c) requires that the Successor Agency perform obligations required pursuant to any enforceable obligation, the Dissolution Laws are generally unclear as to whether the Successor Agency can provide discretionary consent to or approval of proposed actions under enforceable obligations, and execute related documents, without Oversight Board authorization. For that reason, the Successor Agency is requesting, in an abundance of caution, that the Oversight Board confirm that the Successor Agency is authorized to grant these limited discretionary consents or approvals.

This request relates to requests to the Successor Agency for approval of or consent to refinancing, loan modifications, and loan subordinations related to non-housing projects pursuant to the terms of the agreements governing those projects, which the Successor Agency expects to receive from time to time for various projects over the course of the winding down of the former RDA's operations. For example, the Successor Agency expects to receive three or four requests for approvals of refinancing and loan modifications related to various transactions under the Disposition and Development Agreement for the former Naval Training Center (NTC) within the next several months. The proposed authorization from the Oversight Board would allow the Successor Agency to approve or consent to requested refinancing, loan modifications, and loan subordinations that are consistent with the terms of the applicable enforceable obligation agreement and which will not have any substantial adverse impact on the financial interests of the Successor Agency.

The Successor Agency anticipates it will receive several requests of this nature in the near future. Therefore, the Successor Agency is requesting a "confirmation of authority" to consent to or approve in response to this type of request, rather than returning to the Oversight Board for each specific request. This streamlined approach will allow the Successor Agency to operate in an efficient manner and to fulfill obligations without delay and within more reasonable timelines and budgets, while minimizing the Successor Agency's exposure to new claims and liabilities. This is to the benefit all local taxing entities.

This request is one of several that will streamline the implementation of approved ROPS projects and help avoid an overly burdensome, costly and time-consuming implementation process and minimize risk of failure to meet our contractual responsibilities.

Conclusion

The Oversight Board is respectfully requested to authorize the Successor Agency to approve refinancing, loan modifications, and loan subordinations pursuant to enforceable obligations, and to execute all related documents, if the proposed refinancing, loan modification, or loan subordination will not have any substantial adverse impact on the Successor Agency's financial interests.

David Graham
Office of the Mayor

Jay Goldstone
Chief Operating Officer

OVERSIGHT BOARD RESOLUTION NUMBER OB-2012-28

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY CONFIRMING THAT THE SUCCESSOR AGENCY IS AUTHORIZED TO CONSENT TO OR APPROVE REFINANCING, LOAN MODIFICATIONS, OR LOAN SUBORDINATIONS PURSUANT TO ENFORCEABLE OBLIGATIONS

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, as amended by 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, California Health and Safety Code section 34177(c) requires the Successor Agency to perform obligations required pursuant to any enforceable obligation; and

WHEREAS, certain enforceable obligations of the Successor Agency allow for refinancing, loan modifications, or loan subordinations, subject to the consent or approval of the Successor Agency;

WHEREAS, the Dissolution Laws are unclear as to whether the Successor Agency can consent to or approve such refinancing, loan modifications, or loan subordinations without the

approval of the Oversight Board when the terms of the enforceable obligation give the Successor Agency some limited discretion in granting the consent or approval; and

WHEREAS, given the lack of clarity in the Dissolution Laws, the Successor Agency has, in an abundance of caution, requested that the Oversight Board authorize the Successor Agency to consent to or approve refinancing, loan modifications, or loan subordinations under these circumstances.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board that the Successor Agency is authorized to consent to or approve refinancing, loan modifications, and loan subordinations pursuant to enforceable obligations, and to execute all related documents, if the proposed refinancing, loan modification or loan subordination will not have any substantial adverse impact on the Successor Agency's financial interests.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on September ____, 2012.

Chair, Oversight Board