

**COUNTY OF SAN DIEGO
COUNTY OVERSIGHT BOARD**

REGULAR MEETING

January 4, 2013, 9:30 a.m.

County Administration Center, Room 302
1600 Pacific Highway, San Diego, California 92101

- A. Call to Order
- B. Roll Call
- C. Approval of Statement of Proceedings/Minutes of October 12, 2012.
- D. Public Communication Speakers: Members of the public may address the Oversight Board on subject matters within the Board's jurisdiction, but not an item on this agenda. Each speaker is limited to two minutes.
- E. Discussion Item(s)
 - 1. Receive Non-Housing Funds Due Diligence Review and convene public comment session
 - 2. Receive Staff Report on Meet and Confer with Department of Finance
- F. Action Item(s)
- G. Communications Received
- H. Set Future Meeting Date(s)
- I. Adjournment

Supporting documentation and attachments for items listed on this agenda can be viewed online at www.sdcounty.ca.gov or in the Office of the Clerk of the Board of Supervisors at the County Administration Center, 1600 Pacific Highway, Room 402, San Diego, CA 92101.

ASSISTANCE FOR THE DISABLED:

Agendas and records are available in alternative formats upon request. Contact the Clerk of the Board at (619) 531-5434 with questions or to request a disability-related accommodation. Individuals requiring sign language interpreters should contact the Americans with Disabilities Coordinator at (858) 505-6521. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 24 hours in advance of the meeting so that arrangements may be made. An area in the front of the room is designated for individuals requiring the use of wheelchair or other accessible devices.

**MINUTES
COUNTY OF SAN DIEGO
COUNTY OVERSIGHT BOARD**

**REGULAR MEETING
OCTOBER 12, 2012, 9:30 A.M.**

County Administration Center, Room 302
1600 Pacific Highway, San Diego, California 92101

A. Call to Order at 9:35 a.m.

B. Roll Call

PRESENT: Chairman Matt Schneider; Vice-Chairman Scott Patterson; Secretary Robert Schiwitz; Board Member Jo Marie Diamond; Board Member Bonnie Dowd; and Board Member Mario Sanchez; also Chief Deputy Clerk Andrew Potter; Community Services Group Finance Director Kaye Hobson; Senior Deputy County Counsel Mark Mead; and Attorney At Law Valerie Tehan (via teleconference).

ABSENT: Board Member Kathy Kassel

C. Approval of Statement of Proceedings/Minutes of October 5, 2012.

ACTION:

ON MOTION of Member Dowd, seconded by Member Sanchez, the Oversight Board approved the Statement of Proceedings/Minutes of October 5, 2012.

AYES: Dowd, Patterson, Sanchez, Schiwitz

ABSENT: Kassel

ABSTAIN: Diamond, Schneider

D. Public Communication Speakers: Members of the public may address the Oversight Board on subject matters within the Board's jurisdiction, but not an item on this agenda. Each speaker is limited to two minutes.

There were no public communication speakers.

E. Discussion Items

There were no discussion items.

F. Action Items

1. Adopt a Resolution Approving the Low- and Moderate-Income Housing Funds Due Diligence Review

ON MOTION of Member Schiwitz, seconded by Member Patterson, the Oversight Board approved the funding amount identified in the Low- and Moderate-Income Housing Funds Due Diligence Review to be transferred to the Low- and Moderate-Income Housing Funds and adopted Resolution OB2012-04, entitled, "A RESOLUTION OF THE COUNTY OF SAN DIEGO OVERSIGHT BOARD APPROVING THE LOW- AND MODERATE-INCOME HOUSING FUNDS DUE DILIGENCE REVIEW."

AYES: Diamond, Patterson, Sanchez, Schiwitz, Schneider
ABSTAIN: Dowd
ABSENT: Kassel

2. Adopt a Resolution Approving the Revised Recognized Obligation Payment Schedule (ROPS III) for January-June 2013

ON MOTION of Member Dowd, Seconded by Member Schiwitz, the Oversight Board directed that in the event that the California State Department of Finance grants permission to file a revised Third Recognized Obligation Payment Schedule (ROPS), then the revised Third ROPS that identifies the adjusted payment from the Redevelopment Property Tax Trust Fund (RPTTF) as \$1,028,996, for the period of January 1, 2013 through June 30, 2012 shall be approved, thereby adopting Resolution OB2012-05, entitled, "A RESOLUTION OF THE COUNTY OF SAN DIEGO OVERSIGHT BOARD RELATED TO THE REVISED THIRD RECOGNIZED OBLIGATION PAYMENT SCHEDULE;" and requested staff to return to the Board with an update on the status of the revised Third ROPS.

AYES: Diamond, Dowd, Sanchez, Schiwitz, Schneider
NOES: Patterson
ABSENT: Kassel

DOCUMENTS:

Exhibit 1: Estimate of Amounts Available for RPTTF Distribution FY2012-13
Exhibit 2: Revised Third Recognized Obligation Payment Schedule (ROPS III)

G. Communications Received

There were no communications submitted to the Oversight Board.

H. Future Agenda Item(s)

Mr. Patterson requested an updated cash flow report.

I. Set Future Meeting Date(s)

The next scheduled meetings of the Oversight Board will be January 4, 2013 at 9:30 a.m., January 11, 2013 at 9:30 a.m., and February 22, 2013 at 9:30 a.m., in Room 302 of the County Administration Center.

J. Adjournment

There being no further business, ON MOTION of Chairman Schneider, the Board adjourned at 11:11 a.m.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors
County of San Diego, State of California

BY: ANDREW J. POTTER
Chief Deputy Clerk of the Board of Supervisors
County of San Diego, State of California

Discussion: Potter

NOTE: These Minutes set forth all actions taken by the County of San Diego Oversight Board on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Supporting documentation and attachments for items listed on this agenda can be viewed online at www.sdcounty.ca.gov or in the Office of the Clerk of the Board of Supervisors at the County Administration Center, 1600 Pacific Highway, Room 402, San Diego, CA 92101.



COUNTY OF SAN DIEGO

AGENDA ITEM

COUNTY OVERSIGHT BOARD

COUNTY OVERSIGHT BOARD

JO MARIE DIAMOND
DR. BONNIE DOWD
KATHY KASSEL
SCOTT PATTERSON
MARIO SANCHEZ
ROBERT SCHWITZ
MATT SCHNEIDER

DATE: January 4, 2013

E-1

TO: County of San Diego Oversight Board

SUBJECT: RECEIVE NON-HOUSING FUNDS DUE DILIGENCE REVIEW AND
CONVENE PUBLIC COMMENT SESSION

SUMMARY:

Overview

The Redevelopment Agency of the County of San Diego was dissolved on January 31, 2012. On January 24, 2012 (14), the County of San Diego was established as the Successor Agency to oversee the wind-down of the former redevelopment agency's operations following the steps established by AB 1X26, the Dissolution Act, to preserve assets, fulfill legally binding commitments, oversee the termination of activities, and return resources expeditiously to the affected taxing entities. Since that time, and as required by the Dissolution Act, the Oversight Board has been selected and met to take actions to remain in compliance with legislation and State Department of Finance and State Controller procedures.

AB 1484, effective June 27, 2012 as a trailer bill to the Fiscal Year 2012-13 State budget, set forth new and accelerated deadlines for actions to be taken by the Oversight Board, and cash payments to be made to the affected taxing entities, and also made changes to other elements of the dissolution process. Other requirements included agreed-upon procedures for "due diligence" reviews of the assets and obligations of the former redevelopment agency, preparatory to the transfer of excess cash to the affected taxing entities. The first of these reviews concerned the Low- and Moderate-Income Housing Fund (LMIHF). That review identified excess cash of \$1,441,974, which was subsequently transferred to the County Auditor and Controller on November 14, 2012. The second and last of the reviews concerns all Non-Housing Funds, which has not yet been completed. This review will be distributed to the Oversight Board and members of the public at the meeting. The Oversight Board is required by legislation to "convene a public comment session" on the Non-Housing Funds review.

**SUBJECT: RECEIVE NON-HOUSING FUNDS DUE DILIGENCE REVIEW AND
CONVENE PUBLIC COMMENT SESSION**

Recommendation(s)

COUNTY OVERSIGHT BOARD

Receive the Non-Housing Funds Due Diligence Review and convene public comment session.

Fiscal Impact

If approved by the Oversight Board, funds as identified in the audit report will be transferred from the Non-Housing Funds to the County Auditor and Controller for distribution to affected taxing entities.

BACKGROUND:

AB 1484 made both technical and substantive changes to the original dissolution process. Significant changes that affect the County Successor Agency (SA) include accelerated deadlines, substantial monetary penalties for non-compliance, cash payments of former redevelopment agency tax increment, requirements for new agreed-upon procedures "due diligence" reviews by certified accountants, and public notice period for asset transfers.

AB 1484 requires the "due diligence review" by a "licensed accountant" approved by the County Auditor and Controller (A&C) of all SA funds. The purpose of the reviews, whose agreed-upon procedures have been issued by the State Department of Finance (DOF), is to determine the amount of money available for transfer to A&C for eventual distribution to affected taxing entities. The first of these reviews concerned the Low- and Moderate-Income Housing Fund. That review identified excess cash of \$1,441,974, which was subsequently transferred to the A&C on November 14, 2012.

The second and last of these reviews concerns the Non-Housing Funds. As of December 27, 2012, this review had not yet been completed. Copies will be made available to the Oversight Board and to the public at the meeting. The Oversight Board is required to "convene a public comment session" on the Non-Housing Funds Due Diligence Review and then to approve the review at a subsequent meeting. Both the Oversight Board and the DOF (after considering the opinions of the A&C and the State Controller) may make changes to the amount to be transferred, and a meet-and-confer process may occur to resolve disputes between the SA and the DOF. Funds must be transmitted to A&C within five working days of approval by the DOF.

Respectfully submitted,

HELEN N. ROBBINS-MEYER



By
DAVID ESTRELLA
Deputy Chief Administrative Officer

SUBJECT: RECEIVE NON-HOUSING FUNDS DUE DILIGENCE REVIEW AND
CONVENE PUBLIC COMMENT SESSION

ATTACHMENT(S)

A – Non-Housing Fund Due Diligence Review (not available as of 12/27/2012)

CONTACT PERSON(S):

Kaye Hobson

Name

619-531-5274

Phone

Kaye.Hobson@sdcounty.ca.gov

E-mail



COUNTY OF SAN DIEGO

AGENDA ITEM

COUNTY OVERSIGHT BOARD

COUNTY OVERSIGHT BOARD

JO MARIE DIAMOND
DR. BONNIE DOWD
KATHY KASSEL
SCOTT PATTERSON
MARIO SANCHEZ
ROBERT SCHIWITZ
MATT SCHNEIDER

DATE: January 4, 2013

E-2

TO: County of San Diego Oversight Board

SUBJECT: RECEIVE STAFF REPORT REGARDING MEET AND CONFER WITH DEPARTMENT OF FINANCE

SUMMARY:

Overview

The State Department of Finance (DOF) disallowed two Enforceable Obligations on the Recognized Obligations Payment Schedule for the period January-June 2013 (ROPS III), as approved by the Oversight Board on August 23, 2012 and revised on October 12, 2012. Item 2, payment of \$300,000 on the loan in the amount of \$3.7 million from the County Airport Enterprise Fund, was disallowed because loans between the former redevelopment agency and the sponsoring agency and its related entities are by definition not Enforceable Obligations. Item 5 was initially a request for a generic cash-flow contingency reserve of \$1.2 million, but was revised to be a specific reserve of \$263,000 for the purpose of bond payments.

Successor Agency staff and DOF representatives held a Meet and Confer session by telephone on November 30, 2012 to request reconsideration of DOF's actions. On December 18, 2012, the DOF issued its final determination letter disallowing both items.

Recommendation(s)

COUNTY SUCCESSOR AGENCY

Receive staff report on Meet and Confer session with Department of Finance.

Fiscal Impact

There is no fiscal impact.

BACKGROUND:

The State Department of Finance (DOF) disallowed two Enforceable Obligations (EOs) on the Recognized Obligations Payment Schedule for the period January-June 2013 (ROPS III), as approved by the Oversight Board on August 23, 2012 and revised on October 12, 2012. Successor Agency staff and DOF representatives held a Meet and Confer session by telephone

SUBJECT: RECEIVE STAFF REPORT REGARDING MEET AND CONFER WITH DEPARTMENT OF FINANCE

on November 30, 2012 to request reconsideration of DOF's actions. On December 18, 2012, the DOF issued its final determination letter (Attachment A) disallowing both items.

Item 2, payment of \$300,000 on the loan in the amount of \$3.7 million from the County Airport Enterprise Fund, was disallowed because loans between the former redevelopment agency and the sponsoring agency and its related entities are, by definition, not EOs under Health and Safety Code 34171(d)(2), except under circumstances that are not applicable in this case. However, DOF's denial does not mean that the loan from the Airport Enterprise Fund can never be repaid. Once a Finding of Completion has been issued by the DOF, the Oversight Board may reinstate this loan and establish a new EO. The Finding of Completion can be issued only when the County Successor Agency has made the following three specific payments to County Auditor and Controller for distribution to affected taxing entities: 1) the "true-up" payment of property tax revenue for the period of November 2012-January 2013; 2) transfer of unencumbered cash from the Low- and Moderate-Income Housing Funds; and 3) transfer of unencumbered cash from the Non-Housing Funds. The first two payments have been accomplished and the last is a companion item on today's agenda.

Item 5 was initially a request for a generic cash-flow contingency reserve, but was revised to be a specific reserve for the purpose of bond payments as allowed under Health and Safety Code Section 34171(d)(1)(A). The specific reserve was denied because the estimated amount of cash available from the Redevelopment Property Tax Trust Fund on June 1, 2013, is greater than the bond debt service for July-December 2013.

Respectfully submitted,

HELEN N. ROBBINS-MEYER



By
DAVID ESTRELLA
Deputy Chief Administrative Officer

ATTACHMENT(S)

A – Meet and Confer Review Letter dated December 18, 2012

CONTACT PERSON(S):

Kaye Hobson

Name

619-531-5274

Phone

Kaye.Hobson@sdcountry.ca.gov

E-mail



December 18, 2012

Ms. Kaye Hobson, Finance Director
County of San Diego
1600 Pacific Hwy #201
San Diego, CA 92101

Dear Ms. Hobson:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 8, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the San Diego County Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 24, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 8, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on November 30, 2012.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific item being disputed.

- Item 2 – Loan from County's Airport Enterprise Fund in the amount of \$3.7 million. Finance continues to deny the item at this time. Finance denied the item as HSC section 34171 (d) (2) states that loans between the County and the former RDA are not enforceable obligations. The Agency contends the item is an enforceable obligation because the loan from the County's Airport Enterprise Fund (AEF) to the former RDA for the Gillespie Field Redevelopment Project Area would have been an unlawful use of airport revenue if the RDA was not obligated to repay the loan with interest and the repayment of the loan from the AEF to the former RDA is required by federal law. Per HSC section 34171 (d) (2), loan agreements entered into between the RDA and the city, county, or city and county that created it, within two years of the date of creation of the RDA or solely for the purpose of securing or repaying indebtedness obligations, may be deemed to be enforceable obligations. However, the loan was not entered into within two years of the date of creation of the RDA or solely for the purpose of securing or repaying indebtedness obligations. Finance has not issued a Finding of Completion to the Agency; therefore, the provisions of HSC section 34171 apply. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is currently not an enforceable obligation. However, HSC section 34191.4 may cause this item to be an enforceable obligation in future ROPS periods.

- Item No. 5 – Transition period cash flow reserve in the amount of \$1.2 million. Finance continues to deny the item. Finance denied the item as restricting cash without an expenditure contract does not meet the definition of an enforceable obligation. The Agency requested that the generic reserve be changed to the specific bond-related reserve as allowed under HSC section 34171 (d) (1) (A) for the anticipated deficit amount of \$263,000. The Agency provided the estimated amount of Redevelopment Property Tax Trust Fund (RPTTF) available for the June 1, 2013 distribution showing an estimated deficit of \$263,000 to cover all obligations. However, the estimate shows that \$1,229,000 of RPTTF is expected to be available and the bond debt service payment due in December 2013 is \$785,000. Although HSC section 34171 (d) (1) (A) states a reserve may be held when...the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year, the Agency is estimated to have enough RPTTF to cover the bond debt service in the following half of the calendar year. Therefore, the item is not an enforceable obligation.

The Agency's maximum approved RPTTF distribution for the reporting period is: \$475,996 as summarized below:

| Approved RPTTF Distribution Amount | |
|---|-------------------|
| For the period of January through June 2013 | |
| Total RPTTF funding requested for obligations | \$ 669,996 |
| Less: Six-month total for item(s) denied or reclassified as administrative cost | |
| Item 2 - County of San Diego Loan | 300,000 |
| Total approved RPTTF for enforceable obligations | <u>\$ 369,996</u> |
| Plus: Allowable RPTTF distribution for administrative cost for ROPS III | 106,000 |
| Total RPTTF approved: | \$ 475,996 |

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not questioned on this ROPS or a preceding ROPS.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a long horizontal stroke extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Ms. Holly Simonette, Staff Officer, County of San Diego
Ms. Tracy Sandoval, Assistant Chief Financial, County of San Diego
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, County of San Diego
California State Controller's Office