Oversight Board of the City and County of San Francisco

RESOLUTION NO. 9-2013
Adopted September 23, 2013

APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JANUARY 1, 2014 TO JUNE 30, 2014 (ROPS 13-14B), INCLUDING THE ADMINISTRATIVE BUDGET FOR THE SUCCESSOR AGENCY, AND SUPPORTING DOCUMENTATION.

WHEREAS, Under Assembly Bill No. X1 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, No. S194861, the Redevelopment Agency of the City and County of San Francisco (the "SFRA"), together with all other redevelopment agencies in the State of California, dissolved by operation of law on February 1, 2012; and,

WHEREAS, In June 2012, the California Legislature adopted legislation amending AB 26, known as Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12, Regular Session) ("AB 1484"), and the Governor signed that bill on June 27, 2012. Hereinafter, AB 26, as amended by AB 1484, is referred to as the "Redevelopment Dissolution Law" or the "Law;" and,

WHEREAS, The Redevelopment Dissolution Law places successor agencies' performance of their duties under the Law under the supervision of newly established oversight boards, which are different from the local legislative bodies and which will oversee the fiscal management of future successor agency activities regarding the enforceable obligations. In performing their functions required under the Redevelopment Dissolution Law, the oversight boards owe fiduciary responsibilities to the holders of enforceable obligations and the taxing entities entitled to the distribution of property tax revenues under the Law. Some actions by the oversight boards and successor agencies are also subject to discretionary review by the State Department of Finance and the State Controller under the Redevelopment Dissolution Law; and,

WHEREAS, The Mayor (with confirmation by the Board of Supervisors) and the taxing entities have appointed members to the oversight board of the City and County of San Francisco (the “Oversight Board”); and,

WHEREAS, The Redevelopment Dissolution Law requires successor agencies to make payments due for enforceable obligations and to perform obligations required pursuant to an enforceable obligation. Cal. Health & Safety Code § 34177 (a) and (c). In addition, the Law authorizes successor agencies to create new enforceable obligations if they are “in compliance with an enforceable obligation that existed prior to June 28, 2011.” Cal Health & Safety Code § 34177.3 (a). The Law, however, authorizes payments under an enforceable obligation only if the expenditure appears on a Recognized Obligation Payment Schedules ("ROPS")

that the Oversight Board and the Department of Finance have approved for each six-month period (January-June, July-December), beginning January 1, 2012. Each ROPS must state the minimum payment amounts and due dates for payments required by enforceable obligations for each six-month fiscal period. Only those payments listed on the ROPS may be made by the successor agency from funds specified in the ROPS; and,

WHEREAS, The Redevelopment Dissolution Law defines an "enforceable obligation" as meaning any of the following: (a) bonds, including debt service, reserve set-asides and related required payments; (b) loans of money borrowed by the former SFRA, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan term; (c) payments required by the Federal government; obligations to the State or imposed by State law (other than regular pass-through payments), and legally enforceable payments related to Agency employee obligations (including pension system payments or other obligations of a collective bargaining agreement); (d) legal judgments and settlements (other than pass-through payments); (e) legally binding and enforceable agreements and contracts, such as construction contracts, personal services contracts, owner participation agreements, and disposition and development agreements; (f) contracts and agreements necessary for the administration and operation of the successor agency, such as agreements to purchase or rent office space, equipment and supplies, and for carrying insurance; and (g) amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund, provided the repayment schedule is approved by the oversight board (Cal. Health & Safety Code §34171); and,

WHEREAS, For each recognized obligation, the Redevelopment Dissolution Law and guidance from the Department of Finance ("DOF") require the ROPS to identify one or more of the following payment sources: (1) bond proceeds; (2) reserve balances; (3) "administrative cost allowance;" (4) the Redevelopment Property Tax Trust Fund (created by the City Controller for property tax revenues (former increment)) when no other funding source is available or when payment from property tax revenues is required by an enforceable obligation; and (5) other revenue sources as approved by the oversight board (Cal. Health & Safety Code §34177(l)(1)); and,

WHEREAS, Redevelopment Dissolution Law authorizes successor agencies to enter into certain new contracts if the Department of Finance has issued a Finding of Completion. If a Finding of Completion has been issued, a successor agency may expend bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations if it separately lists the "excess bond proceeds obligations" on the ROPS and uses the excess proceeds in a manner consistent with the original bond covenants. Cal. Health & Safety Code § 34191.4(c)(2)(A). The Successor Agency received a Finding of Completion on May 29, 2013; and,

WHEREAS, The Law also authorizes a successor agency, with Oversight Board approval, to enter into an agreement with the city or county that formed the successor agency (Cal. Health & Safety Code § 34180(h)); and,

WHEREAS, The Bayview Hunters Point 2009 Series B and F Tax Exempt Bond Issuances require that the bond proceeds be used to finance certain redevelopment activities in the Bayview Hunters Point Redevelopment Project Area. The Successor Agency has determined that there are excess proceeds from these issuances ("BVHP Excess Proceeds") and is now requesting through ROPS 13-14B the approval of the Oversight Board to expend $450,000 of the BVHP Excess Proceeds to provide funding to the City through the Mayor's Office of Housing and Community Development ("MOHCD") to implement a Model Block streetscape improvement program (Item # 367) and $785,000 in BVHP Excess Proceeds to the City through the Municipal Transportation Agency ("MTA") to renovate the Bayview Opera House plaza (Item #368); and,

WHEREAS, AB 1484 requires the submittal of an Oversight Board approved ROPS no fewer than 90 days before the date of the next property tax distribution; therefore the deadline for submitting the ROPS for January 1, 2014 to June 30, 2014 is October 1, 2013; and,

WHEREAS, The ROPS for the period January 1, 2014 to June 30, 2014is attached to this resolution as Exhibit A, and fully incorporated in this resolution ("ROPS 13-14B"); and,

WHEREAS, Ongoing projects of the Successor Agency include the implementation of three major approved development projects consistent with the integrated set of enforceable obligations governing them: (1) the Mission Bay North and the Mission Bay South Project Areas (collectively "Mission Bay"), (2) Phases One and Two of the Hunters Point Shipyard Project Area and Zone 1 of the Bayview Hunters Point Project Area (collectively, "Hunters Point Shipyard/Candlestick Point"), and (3) certain parts of the Transbay Transit Center Project Area, including Zone 1 ("Transbay"). (Mission Bay, Hunters Point Shipyard/Candlestick Point and Transbay are sometimes referred to in this resolution as the "Major Approved Development Projects."); and,

WHEREAS, The Successor Agency has enforceable obligations relating to the wind down of redevelopment activities in all other former and existing redevelopment project areas of the former Redevelopment Agency of the City and County of San Francisco (the "Wind Down Obligations"); and,

WHEREAS, The Successor Agency has affordable housing obligations in the Major Approved Development Projects and in the other former and existing redevelopment project areas that qualify as an "enforceable obligation" as described above and in the Redevelopment Dissolution Law, including legally binding and enforceable agreements; obligations imposed by state law; amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund, provided the repayment schedule is approved by the Oversight Board; and obligations imposed by bond covenants (Cal. Health & Safety Code §34171(d)(1)); and,

WHEREAS, Narratives summarizing the Major Approved Development Projects and describing all of the enforceable obligations for each of the Major Approved Development Projects are attached to Oversight Board Resolution No. 5-2012 (adopted April 10, 2012)as Exhibit B, and fully incorporated in that resolution (the "Major Approved Development Projects Summaries"). The Oversight Board approved the Major Approved Development Projects Summaries by Resolution 5-2012; and,

WHEREAS, On December 14, 2012 DOF made a Final and Conclusive Determination approving the Hunters Point Shipyard/Candlestick Point enforceable obligations; and,

WHEREAS, On April 15, 2013 DOF made a Final and Conclusive Determination approving the Transbay Transit Center Redevelopment Project enforceable obligations; and,

WHEREAS, A narrative describing the Long Term Affordable Housing Enforceable Obligations is attached to Oversight Board Resolution No. 5-2012 as Exhibit C, and fully incorporated in that resolution (the "Housing Obligations Summary"). The Oversight Board approved the Housing Obligations Summary by Resolution No. 5-2012; and,

WHEREAS, The City Controller and Successor Agency staff, in coordination with the City Attorney's Office, have reviewed ROPS 13-14B and all appropriate supporting documentation to validate that the items listed in ROPS 13-14B constitute enforceable obligations and Exhibit A meets the requirements for a valid ROPS under the Redevelopment Dissolution Law; and,

WHEREAS, Having determined the validity of the ROPS 13-14B, the Successor Agency staff and the City Controller, having consulted with the City Attorney’s Office, recommend that the Oversight Board approve ROPS 13-14B and authorize its submission to the State Controller and Department of Finance in accordance with AB 1484; now, therefore, be it

RESOLVED, That this Oversight Board approves ROPS 13-14B, including the Administrative Budget for the Successor Agency required by California Health & Safety Code §34177(j), the line items for the Major Approved Development Projects, the Long Term Affordable Housing Enforceable Obligations, and Wind Down Obligations, for the period January to June 2014 inclusive, and directs the Executive Director or her designee to submit the ROPS to the City Controller, Department of Finance, and State Controller, post ROPS 13-14B on the internet website of the Oversight Board, and to take any other actions necessary or appropriate to comply with the Redevelopment Dissolution Law’s requirements relating to the ROPS; and, be it, further

RESOLVED, That this Oversight Board authorizes the Successor Agency to enter into an agreement with MOHCD to provide $450,000 in BVHP Excess Bond Proceeds for the Model Block streetscape improvement program, an expenditure that is consistent with the bond covenants, which require the funds to be used for redevelopment activities in the BVHP; and, be it, further

RESOLVED, That this Oversight Board authorizes the Successor Agency to enter into an agreement with MTA to provide $785,000 in BVHP Excess Bond Proceeds for the renovation of the Bayview Opera House plaza, an expenditure that is

consistent with the bond covenants, which require the funds to be used for redevelopment activities in the BVHP; and, be it, further

RESOLVED, That this Oversight Board authorizes City officials to take such actions as may be necessary or appropriate, in consultation with the City Attorney, to effectuate the purpose and intent of this resolution and to comply with the Redevelopment Dissolution Law, and ratifies and confirms any prior actions taken by City officials consistent with this resolution.

Exhibit A: ROPS 13-14B
A-1: Summary
A-2: Report of Fund Balances
A-3: ROPS Detail
A-4: Report of Prior Period Adjustments
A-5: Notes

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its meeting of September 23, 2013.

Natasha Jones
Oversight Board Secretary