



City of Rohnert Park ♦ 130 Avram Avenue ♦ Rohnert Park, California 94928
PHONE: (707) 588-2227 ♦ FAX: (707) 792-1876 ♦ WEB: www.rpcity.org

**OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY
CITY OF ROHNERT PARK
(Successor Agency of the Former Community Development Commission of the
City of Rohnert Park)**

**REGULAR MEETING AGENDA
Wednesday, April 10, 2013, 2:00 p.m.**

**MEETING LOCATION: CITY HALL - COUNCIL CHAMBER
130 Avram Avenue, Rohnert Park, California**

The Oversight Board welcomes your attendance, interest and participation at its public meetings. Oversight Board agendas and minutes may be viewed at the City of Rohnert Park website at: www.rpcity.org.

PUBLIC HEARINGS

The Oversight Board may discuss and/or take action on any or all of the items listed on this agenda. If you challenge decisions of the Oversight Board or the Successor Agency City of Rohnert Park in court, you may be limited to raising only those issues you or someone else raised at public hearing(s) described in this agenda, or in written correspondence delivered to the Successor Agency City of Rohnert Park, at, or prior to the public hearing(s).

PUBLIC COMMENTS

For public comment on items listed or not listed on the agenda, or on agenda items if unable to speak at the scheduled time (limited to three minutes per appearance and a 30 minute total time limit, or allocation of time based on number of speaker cards submitted)

**PLEASE FILL OUT A SPEAKER CARD PRIOR TO SPEAKING
*SEE NOTE AT THE END OF THIS AGENDA**

Copies of all staff reports and documents subject to disclosure that relate to each item of business referred to on the agenda are available for public inspection before each regularly scheduled Board meeting at City Hall, located at 130 Avram Avenue. Any writings or documents subject to disclosure that are provided to all, or a majority of all, of the members of the Board regarding any item on this agenda after the agenda has been distributed will also be made available for inspection at City Hall during regular business hours.

ANNOUNCEMENT: Please turn off all pagers, cellular telephones and all other communication devices upon entering the Rohnert Park Council Chamber. Use of these devices causes electrical interference with the sound recording and TV broadcast systems.

2:00 PM

1. **CALL TO ORDER / ROLL CALL** (Zane__ Mackenzie__ Babonis__ Calvert__ Jenkins__ Jolley __ Thompson__)

2. **PUBLIC COMMENTS**

Persons wishing to address the Board on any Consent Calendar item or on Successor Agency City of Rohnert Park business not listed on the Agenda may do so at this time. Each speaker will be allotted 3 minutes. Those wishing to address the Oversight Board on any report item listed on the Agenda should submit a "Speaker Card" to the Clerk before announcement of agenda item.

3. **APPROVAL OF MINUTES**

A. Special meeting of Oversight Board for Successor Agency City of Rohnert Park held on February 27, 2013

4. **MEETING ITEMS**

A. Election of Officers

1. Staff Report

2. Nomination and Election of Officers

3. Resolution for adoption: Resolution No. OSB 2013-03 A Resolution of the Oversight Board to the Successor Agency City Of Rohnert Park Affirming Selection of Officers

a. Board Motion/Discussion/Vote

B. Consideration of Extension of Legal Services Agreement with Betsy Strauss

1. Staff Report

a. Board Discussion/Direction

C. Department of Finance Review of the Due Diligence All Other Funds of the Successor Agency

1. Staff Report

5. **NEW MATTERS FOR FUTURE CONSIDERATION**

6. **PUBLIC COMMENT ON NON-AGENDA ITEMS**

Members of the public may address the Oversight Board on matters that are within the Oversight Board's jurisdiction and not on today's calendar. Each speaker shall have up to three minutes to make pertinent public comments unless the Oversight Board adopts a shorter period. It is strongly recommended that members of the public who wish to address the Oversight Board should fill out a "Speaker Card" provided by the Clerk, and submit the completed card to the Clerk.

7. **ADJOURNMENT**

DISABLED ACCOMMODATION

If you have a disability which requires an interpreter or other person to assist you while attending this Board meeting, please contact the Clerk of the Board at (707) 588-2205 at least 72 hours prior to the meeting to ensure arrangements for accommodation by the City. Please notify the Clerk's Office as soon as possible if you have a visual impairment requiring meeting materials to be produced in another format (Braille, audio-tape, etc.)



**MINUTES OF THE SPECIAL MEETING
OVERSIGHT BOARD
TO THE SUCCESSOR AGENCY CITY OF ROHNERT PARK
Wednesday, February 27, 2013
Rohnert Park City Hall, Council Chambers
130 Avram Avenue, Rohnert Park, California**

1. CALL TO ORDER

The special meeting of the Oversight Board to the Successor Agency City of Rohnert Park was called to order by Chair Shirlee Zane at 2:04 PM on February 27, 2013 in the Council Chambers, Rohnert Park City Hall, 130 Avram Avenue, Rohnert Park, California.

Present: Shirlee Zane, Chair
Jake Mackenzie, Vice Chair
Linda Babonis, Board Member
Denise Calvert, Board Member
Darrin Jenkins, Board Member
Kate Jolley, Board Member

Absent: Mike Thompson, Board Member

Staff present: Clerk of the Board Eydie Tacata; Finance Director Cathy Orme; Oversight Board Counsel Betsy Strauss (via telephone)

2. PUBLIC COMMENTS

There were no comments from the public.

3. APPROVAL OF MINUTES

Chair Zane announced the item.

ACTION: Moved/seconded (Babonis/Mackenzie) and carried 6-0-1 to approve minutes of the meeting of January 10, 2013.

4. MEETING ITEMS

A. Approving the ROPS 13-14A of the Successor Agency to the former Community Development Commission of the City of Rohnert Park

Chair Zane announced the item. Finance Director Cathy Orme gave the staff report.

There was general discussion among the Board members, Oversight Board Counsel and Successor Agency staff about specific line items in the ROPS.

ACTION: Moved/seconded (Mackenzie/Jolley) and carried 6-0-1 to approve Resolution No. OSB 2013-02: A Resolution of the Oversight Board for the Successor Agency City of Rohnert Park Approving the Recognized Obligation Payment Schedule for July 1 – December 31, 2013 (“ROPS 13-14A”), Pursuant to Section 34177 of the California Health and Safety Code.

5. NEW MATTERS FOR FUTURE CONSIDERATION

There were no new matters.

6. PUBLIC COMMENT ON NON-AGENDA ITEMS

There were no comments from the public.

7. ADJOURNMENT

ACTION: The Board members concurred to adjourn the meeting at 2:21 PM.

Eydie Tacata, Clerk of the Board
Successor Agency City of Rohnert Park

Shirlee Zane, Chair
Oversight Board for the Successor Agency of
Rohnert Park



Mission Statement

“We Care for Our Residents by Working Together to Build a Better Community for Today and Tomorrow.”

**CITY OF ROHNERT PARK
OVERSIGHT BOARD AGENDA**

Meeting Date: April 10, 2013
Submitted By: Gabriel A. Gonzalez, City Manager
Prepared By: Gabriel A. Gonzalez, City Manager
Agenda Title: **Election of Officers**

RECOMMENDED ACTIONS:

- (1) Elect one member of the Oversight Board to serve as Chair of the Oversight Board of the Successor Agency City of Rohnert Park (“Board”) for a one-year term effective the next regularly scheduled or special meeting;
- (2) Elect one member to serve as Vice Chair of the Board for a one-year term; and
- (3) Consider and adopt attached Resolution affirming the selection of Board officers.

BACKGROUND:

On April 11, 2012, the Board elected Shirlee Zane as Chair and Jake Mackenzie as Vice Chair of the Board. On June 22, 2012, the Board approved *Resolution No. OSB 2012-07: Adopting Bylaws for the Oversight Board for the Successor Agency City of Rohnert Park and Naming Officers*.

Article II, Section 5 of the Bylaws of the Oversight Board state:

“The Chair and Vice Chair shall be elected from among the members of the Board at the first regular meeting of the Board. Thereafter, the Chair and Vice Chair shall be elected from among the members of the Board at each annual meeting. Each officer shall hold office until the next annual meeting of the Board following his/her election and until his/her successor is elected and in office. Any such officer shall not be prohibited from succeeding himself or herself, but no person shall be elected as an officer for more than two consecutive terms.”

This meeting of April 10, 2013 is designated as the regular annual meeting of the Board at which election of officers is to take place.

DISCUSSION:

A majority of the total membership of the Board constitutes a quorum (four members) for the transaction of business. Four affirmative votes are required to approve any action taken by the Board. It is recommended that the Chair open and close nominations to the Board for the election of Chair. Votes will be cast for the nominee(s) by roll call vote. The nominee receiving at least four affirmative votes will be elected as Chair. The same process would be facilitated by the Chair for the election of a Vice Chair.

City Manager Approval Date: 4/8/13

Attachments: Resolution

RESOLUTION NO. OSB 2013-03

**A RESOLUTION OF THE OVERSIGHT BOARD FOR THE
SUCCESSOR AGENCY CITY OF ROHNERT PARK
AFFIRMING SELECTION OF OFFICERS**

WHEREAS, the Oversight Board for the Successor Agency City of Rohnert Park (the “Board”) organized itself pursuant to Chapter 4 (commencing with Section 34179) of Part 1.85 of Division 24 of the Health and Safety Code;

WHEREAS, at the Board’s initial meeting on April 11, 2012, the Board members were sworn in as public officials, and the Chair and Vice Chair were selected by a majority vote of the Board;

WHEREAS, on June 22, 2012, the Board adopted Bylaws for the Oversight Board for the Successor Agency City of Rohnert Park, which established that at each annual meeting, the Chair and Vice Chair shall be elected from among the members of the Board;

WHEREAS, an annual meeting of the Oversight Board was held on April 10, 2013, and the Chair and Vice Chair of the Oversight Board were elected.

NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY CITY OF ROHNERT PARK DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The officers of the Board, elected in accordance with the Bylaws, are as follows:

Chair: _____

Vice Chair: _____

Section 2. This Resolution shall be effective the next regularly scheduled or special meeting.

DULY AND REGULARLY ADOPTED this 10th day of April, 2013.

**OVERSIGHT BOARD FOR THE SUCCESSOR
AGENCY CITY OF ROHNERT PARK**

Chair Shirlee Zane

ATTEST:

Eydie Tacata, Clerk of the Board



Mission Statement

“We Care for Our Residents by Working Together to Build a Better Community for Today and Tomorrow.”

**CITY OF ROHNERT PARK
OVERSIGHT BOARD AGENDA**

Meeting Date: April 10, 2013
Submitted By: Gabriel A. Gonzalez, City Manager
Prepared By: Gabriel A. Gonzalez, City Manager
Agenda Title: **Consideration of Extension of Legal Services Agreement with Betsy Strauss**

RECOMMENDED ACTION:

Discuss and provide direction to staff to request that the City of Rohnert Park, acting in its capacity as the Successor Agency, approve First Amendment to the Legal Services Agreement with Betsy Strauss for the Successor Agency’s Oversight Board (“First Amendment”).

BACKGROUND:

At the April 11, 2012 meeting, staff recommended that the Board consider retaining separate legal counsel for the Board independent of the City. The Board directed staff to provide options for outside legal counsel. On May 7, 2012, staff returned to the Board with a recommendation to consider retaining Betsy Strauss as the Board’s legal counsel. The Board directed staff to request that the City of Rohnert Park, in its capacity as the Successor Agency, consider and approve the Legal Services Agreement with Betsy Strauss (“Agreement”) to provide services to the Oversight Board. (See attached Agreement.) On July 24, 2012, the Rohnert Park City Council approved Resolution No. 2012-87 authorizing and approving the Agreement.

DISCUSSION:

The Agreement between the City of Rohnert Park in its capacity as the Successor Agency and Betsy Strauss is for legal services to the Oversight Board through June 30, 2013. If the Board desires to retain Ms. Strauss’ legal services beyond June 30, 2013, the term of the Agreement should be extended with an amendment.

Also, the Agreement is for legal services to be provided on an as-needed basis up to a not-to-exceed amount of \$25,000. Board staff is recommending that the Agreement’s not-to-exceed amount be lowered to \$10,000. About \$1,200 of the Agreement has been invoiced and paid to date for Ms. Strauss’ legal services through October 2012. It is anticipated that the proposed \$10,000 limit will still be sufficient to cover the most recent unbilled work, as well as future services to the Board for the remainder of the redevelopment unwinding process. Lowering the not-to-exceed amount also will result in a smaller encumbrance of general fund monies.

A proposed First Amendment to the Agreement to effect these changes, once approved by the City of Rohnert Park, is attached for the Board’s consideration.

The Board itself does not have contracting authority, but it may direct the City Manager of the Successor Agency City of Rohnert Park to request that the City of Rohnert Park, acting in its capacity as Successor Agency, consider and authorize First Amendment to the Agreement.

FISCAL IMPACT/FUNDING SOURCE:

The cost of outside legal counsel for the Oversight Board is apportioned to the Successor Agency's Administrative Budget. It is not shown as a separate line item on the Agency's Recognized Obligation Payment Schedule. If the cost of outside counsel exceeds the Successor Agency's Administrative Budget, which is \$250,000 per fiscal year, the City's general fund would be impacted in that it would necessarily absorb the excess cost not reimbursed as part of the Administrative Allowance.

City Manager Approval Date: 4/8/13

- Attachments:**
- (1) Legal Services Agreement between City of Rohnert Park, in its capacity as Successor Agency for the Rohnert Park Community Redevelopment Agency ("Successor Agency") and Betsy Strauss ("Attorney")
 - (2) First Amendment to the Legal Services Agreement with Betsy Strauss for the Successor Agency's Oversight Board

LEGAL SERVICES AGREEMENT

This Agreement dated as of July, 24, 2012, is made by and between the City of Rohnert Park, in its capacity as Successor Agency for the Community Development Commission of the City of Rohnert Park ("Successor Agency") and Betsy Strauss ("Attorney"). This Agreement is required by Business and Professions Code Section 6148 and is intended to fulfill its requirements.

RECITALS

WHEREAS, Attorney specializes in public agency law and has significant experience and recognized expertise in that area, and;

WHEREAS, Successor Agency has determined that Attorney's assistance is needed in connection with providing legal services and advice on an as-needed basis to the Successor Agency's Oversight Board;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

AGREEMENT

1. Services. Attorney will provide advisory and representation services to Successor Agency's Oversight Board upon request.
2. Compensation. Compensation to Attorney for services shall be at the rate of \$225 per hour. Total compensation to Attorney under this Agreement shall not exceed Twenty Five Thousand Dollars (\$25,000).
3. Term. The term of this Agreement shall commence upon the Effective Date and shall terminate on June 30, 2013.
4. Standard of Care. Successor Agency has relied on the professional ability, professional experience, and training of Attorney as a material inducement to enter into this Agreement. Attorney warrants that all work will be performed in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance by Agency of work performed by Attorney shall not operate as or be interpreted to be a waiver or release.
5. Non-Reimbursable Services. Attorney shall not be reimbursed for any of the following expenses:
 - a. Travel expenses, except to the extent approved in accordance with Section 6 below.

- b. Messenger or express mail charges.
- c. Normal overhead functions such as word processing or typing time, scheduling of depositions, ordering records, calendaring functions, filing, indexing, proofreading or copying time, or any other procedures that are of a secretarial nature.
- d. Meals, overtime, office supplies, or attorney time for preparation of bills or audit responses.
- e. Expenses for experts or consultants that have been retained without the prior written approval of the Oversight Board.
- f. Photocopying charges.
- g. Office supplies, local telephone charges, per-page fax charges, conference call line charges, routine mail, etc.
- h. Intra-office conferencing time of more than one attorney for routine matters, unless such conference involves expert opinion.
- i. Replacement attorney learning time or other ramp-up learning costs.
- j. Travel time.
- k. Charges/fees for use of computer research programs (e.g. Lexis Nexis, WestLaw, etc.).

6. Direction and Extraordinary Expenses. All direction and control of Attorney's work will be by the Oversight Board. Attorney shall seek pre-approval from the Oversight Board for all extraordinary expenses before the same is incurred by Attorney. By way of example, extraordinary expenses shall include expenses for preparing complex motions, undertaking significant legal research or substantial drafting, retaining experts and consultants, and out-of-town travel.

7. Termination. This Agreement may be terminated by Successor Agency at any time, subject to equitable proportional payments due to Attorney. All files, written material, and documents will be transferred to the Successor Agency upon such termination. Attorney will be available to consult with Successor Agency or, should one be retained, with the Successor's Agency's new attorney with respect to facts and circumstances of any matters previously worked on by Attorney for a reasonable period of time following such termination.

8. Withdrawal. Attorney may withdraw as permitted under the Rules of Professional Conduct of the State Bar of California.

9. Status of Attorney. The parties intend that Attorney, in performing the services under this Agreement, shall be an independent contractor and shall control the work and the manner in which it is performed. Attorney shall acquire no rights or status in the service of Successor Agency. Attorney is not to be considered an agent or employee of Successor Agency and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits Successor Agency provides its employees. In the event Successor Agency exercises its right to terminate this Agreement pursuant to the terms herein, Attorney expressly agrees that she shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

10. Modification. If, during the term of this Agreement, it becomes necessary to amend or add to its terms, conditions, scope or requirements, such amendment or addition shall only be made after mutual agreement of Attorney and Successor Agency and by way of execution of a written modification to this Agreement.

11. Insurance. With respect to performance of work under this Agreement, Attorney shall maintain Commercial General Liability Insurance on a standard occurrence form, no less broad than ISO form CBG 00 01 with minimum limits of \$1,000,000 per Occurrence; \$2,000,000 General Aggregate and Automobile Liability Insurance with minimum limit of \$300,000 Combined Single Limit Per Accident; or Bodily Injury; \$100,000 per person/\$300,000 per accident and Property Damage: \$50,000 per accident.

12. Indemnity. Attorney agrees to accept responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless, and release Successor Agency, its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Attorney, arising out of or in connection with the negligent performance or willful misconduct of Attorney hereunder, whether or not there is concurrent negligence on the part of Successor Agency, but excluding liability due to the sole or active negligence or due to the willful misconduct of Successor Agency. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Attorney or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts. In addition, Attorney shall be liable to Successor Agency for any loss or damage to Successor Agency property arising from or in connection with Attorney's negligent performance or willful misconduct hereunder.

13. Rules of Professional Conduct. Nothing contained herein shall be construed to relieve Attorney of her obligations under the Rules of Professional Conduct.

14. Merger. This Agreement contains the entire agreement of the parties. No other agreement, statement or promise made on or before the effective date of this agreement will be binding on the parties.

15. Taxes. Attorney agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Attorney agrees to indemnify and hold Successor Agency harmless from any liability which it may incur to the United States or to the State of California as a consequence of Attorney's failure to pay, when due, all such taxes and obligations. If Successor Agency is audited for compliance regarding any withholding or other applicable taxes, Attorney agrees to furnish the Successor Agency with proof of payment of taxes on these earnings.

16. Conflict of Interest. Attorney covenants that she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services hereunder. Where the Successor Agency deems that there is an actual or potential conflict of interest in Attorney representing another party in a matter, the Successor Agency must waive any such actual or potential conflict before Attorney may represent such other party.

17. Nondiscrimination. Attorney shall comply with all applicable federal, state, and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation, or other prohibited basis, including without limitation the Successor Agency's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated by this reference.

18. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

19. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail shall be addressed as follows:

Successor Agency: City of Rohnert Park
130 Avram Avenue
Rohnert Park, California 94928
Attention: City Manager

Attorney: Betsy Strauss
1595 King Avenue
Napa, California 94559

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of

the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

20. No Waiver of Breach. The waiver by the Successor Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

21. Applicable Law and Forum. This Agreement shall be construed and interpreted according to California Law, and any action or proceeding to enforce this Contract or for the breach thereof shall be brought or tried in the County of Sonoma.

22. Counterparts. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CITY OF ROHNERT PARK, as Successor Agency to the former Community Development Commission of the City of Rohnert Park ATTORNEY

By: [Signature]
City Manager

By: [Signature]
Betsy Strauss

Date: 7/27/12

Date: 7/27/12

APPROVED AS TO FORM:
By: [Signature]
City Attorney

Date: _____



ATTEST:
By: [Signature]
City Clerk

**FIRST AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH
BETSY STRAUSS FOR THE SUCCESSOR AGENCY’S OVERSIGHT BOARD**

This First Amendment to the Legal Services Agreement between the City of Rohnert Park (“City”), in its capacity as Successor Agency for the Community Development Commission of the City of Rohnert Park, and Betsy Strauss (“Attorney”) is entered into as of the _____ day of _____, 2013, (“Effective Date”), by and between City and Attorney.

RECITALS

- A. City and Attorney are parties to that certain Agreement entitled “*Legal Services Agreement*” dated July 24, 2012, and authorized through Resolution No. 2012-87 approved by the City Council on July 24, 2012, for the amount of \$25,000, and attached hereto as Exhibit A.
- B. City and Attorney now desire to enter into this First Amendment to amend Sections 2 and 3 of the Agreement as described below.

AGREEMENT

NOW, THEREFORE, in consideration of the following mutual promises, the parties hereby amend the Agreement as follows:

- 1. Compensation. Total compensation to Attorney under this Agreement shall not exceed Ten Thousand Dollars (\$10,000).
- 2. Term. In addition to the services provided under the Agreement, the term of the Agreement shall be extended to June 30, 2014.
- 3. Agreement in Effect. Except as amended by this First Amendment, the Agreement shall remain in full force and effect.
- 4. Counterpart Signatures. This First Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this First Amendment as of the date first written above.

CITY OF ROHNERT PARK:

ATTORNEY:

By: _____ / _____
Gabe Gonzalez, City Manager (Date)
Per Purchasing Ordinance

By: _____ / _____
Name: Betsy Strauss (Date)
Title: Attorney

ATTEST:

By: _____ / _____
Name: _____ (Date)
Title: _____

City Clerk
APPROVED AS TO FORM:

City Attorney



Mission Statement

"We Care for Our Residents by Working Together to Build a Better Community for Today and Tomorrow."

**CITY OF ROHNERT PARK
OVERSIGHT BOARD AGENDA**

Meeting Date: April 10, 2013
Submitted By: Gabriel A. Gonzalez, City Manager
Prepared By: Gabriel A. Gonzalez, City Manager
Agenda Title: **Department of Finance Review of the Due Diligence All Other Funds of the Successor Agency**

RECOMMENDED ACTION:

Consider staff report on the Department of Finance Review of the Due Diligence Review All Other Funds and file.

BACKGROUND:

Health and Safety Code §34179.5 required the Successor Agency to conduct a due diligence review of All Other Funds of the Successor Agency (excluding the Low and Moderate Income Housing Fund) to determine the unobligated balances available for transfer to taxing entities. The Successor Agency engaged VTD, a licensed accountant firm approved by the County Auditor-Controller, to perform Agreed-Upon Procedures and produce the DDR All Other Funds report.

A public session was convened to receive comments on the DDR All Other Funds report at a Special Meeting of the Board on January 3, 2013. There were no public comments. On January 10, 2013, the Board approved the DDR All Other Funds of the Successor Agency. The DDR All Other Funds was transmitted to the County Auditor-Controller, the State Controller, and State Department of Finance (hereinafter referred to as "DOF") by January 15, 2013. The DOF had until April 1st, 2013 to complete the review and submit comments on the DDR.

DISCUSSION:

On April 1st, 2013 DOF submitted a letter outlining their determination of the Successor Agency's DDR All Other Funds. They found that assets transferred of \$11,505,035 were not supported by an enforceable obligation. These assets contain both Housing and Redevelopment assets and are net accumulation depreciation. Out of the \$11 million, \$5.35 million are Redevelopment net assets and were included in the "Capital Asset" of the DDR. The other net assets were included in the DDR of the Low and Moderate Income Housing Fund. The Successor Agency has submitted a letter of clarification to DOF on this matter.

DOF also determined that assets of \$273,485 were not enforceable obligations. These items are the General Fund Loan and Land Lease which were disallowed on Recognized Obligation Payments Schedule (ROPS) I.

City Manager Approval Date: 4/8/13

Attachments: Department of Finance letter dated April 1, 2013 of Due Diligence Review of All Other Funds



April 1, 2013

Ms. Cathy Orme, Finance Director
City of Rohnert Park
130 Avram Avenue
Rohnert Park, CA 94928

Dear Ms. Orme:

Subject: Other Funds and Accounts Due Diligence Review

The City of Rohnert Park successor agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on January 17, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Assets transferred to the City of Rohnert Park (City) during the period January 1, 2011 through June 30, 2012 totaling \$11,778,520 are not allowable. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligation or meet the definition of governmental use. Specifically:
 - Assets transferred in the amount of \$11,505,035. The former redevelopment agency (RDA) transferred capital assets in the amount of \$11,505,035 to the City on March 8, 2011. The Agency was unable to provide documentation to demonstrate that the transfer was for an enforceable obligation. Therefore, asset balance stated in the OFA DDR should be increased by \$11,505,035. Because these assets are considered as non-liquid assets, this adjustment does not affect the OFA funds available for distribution to the taxing entities.

The non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these assets that transferred are not for a government purpose or pursuant to an enforceable obligation, these assets should be returned to the Agency and disposed of in a

manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

- Assets transferred totaling \$273,485. The former RDA transferred \$180,110 on June 15, 2011 and \$93,375 on December 30, 2011 for loan payments to the City's General Fund. HSC 34171 (d)(2) states that agreements, contracts or arrangements between the city that created the RDA and the former RDA are not enforceable obligations, unless entered into within two years of the date of creation of the redevelopment agency. Therefore, these transfers are deemed to be not enforceable and the OFA balance available for distribution to the taxing entities will be adjusted by \$273,485.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

Even after the adjustments, the Agency's OFA balance available for distribution to the affected taxing entities continues to be zero (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (1,540,188)
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 273,485
Total OFA available to be distributed:	\$ (1,266,703)

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter do not in any way eliminate the Controller's authority.

Please direct inquiries to Wendy Griffe, Supervisor or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Linda Babonis, Economic Manager, City of Rohnert Park
Mr. Erick Roeser, Property Tax Manager, Sonoma County
California State Controller's Office