



Time: 4:00 p.m.

Douglas Fir Room  
Permit Service Center  
2120 Milvia Street – Berkeley, CA  
Secretary – Lourdes Chang, (510) 981-5419

## Approved Minutes of the February 25, 2013 Oversight Board Meeting

*All agenda items are for Discussion and Possible Action.*

### 1. Roll Call

Present: Arreguin, Decredico, Gerhard, Hardaway and Riddle. Absent: Brooks (for Keith Carson) and Harper. Staff Present: Cosin and Chang.

### 2. Public Comments

None.

### 3. Approval of Agenda

The agenda was approved. (M/S/C: Decredico/Riddle. Unanimous)

### 4. Approval of Minutes of January 7, 2013

A motion to approve the January 7, 2013, minutes was unanimously approved. (M/S/C: Riddle/Hardaway)

### 5. Approval of ROPS IV

Staff reviewed the ROPS IV and answered questions from the Oversight Board. Staff noted the Savo Island Loan Payable is listed in the ROPS IV although DOF denied the loan as an enforceable obligation. The Successor Agency will continue to list the loan as an enforceable obligation, pending the outcome of the Successor Agency's lawsuit against the State Department of Finance (DOF).

The \$1Million bond/City Loan, also denied by DOF as an enforceable obligation, had been listed in ROPS I and ROPS II because it is a loan that needs to be repaid. The City recently issued a demand letter for \$1 million loan. The amount listed in ROPS IV is attributed to the interest due on the loan. The item will continue to be listed in the ROPS pending DOF decision.

Lines 19-28 in the ROPS IV lists Capital Projects that are to be funded using proceeds from the 2005 Tax Allocation Bond. These projects were approved by the former Redevelopment Agency prior to the dissolution of the redevelopment agencies in 2012 and the bond was issued specifically to fund these capital projects. Only one project, Aquatic Park Construction, is currently under contract. The project is nearly complete and the Successor Agency must pay off expenses associated with the project. The remaining projects are not under contract but are part of the West Berkeley Circulation Master Plan and which are to be funded with the 2005 Tax Allocation Bond proceeds. The bond proceeds must be used on the projects for which the bond was issued. The funds cannot be used for other purposes and they cannot be distributed to other taxing agencies. If the funds cannot be used for the capital projects, they would be used to repay the bond.

Although the projects have not yet been approved by the Oversight Board and DOF as enforceable obligations, staff is recommending to list the projects in ROPS IV to expedite implementation of the capital improvements. The Successor Agency has a deadline to spend the bond proceeds by January 2015. If the projects are not listed on ROPS IV then the Successor Agency would not be able to spend the funds and begin work on the projects until January 2014. Staff assured the Oversight Board that the Successor Agency would not spend the funds until it receives the necessary approvals from the Oversight Board and DOF. Staff added the Successor Agency must receive a Finding of Completion from the DOF before staff can return to the Oversight Board to get approval of specific expenses related to the capital projects.

There were some concerns that DOF would not approve these projects since they were not under contract as of June 2012. To address this concern, staff recommended to add a footnote on the ROPS IV stating no funds will be expended and the Successor Agency will not enter into contracts for the capital projects until the Oversight Board and DOF approves the projects as enforceable obligations.

Other comments on the ROPS IV included clarification that the Successor Agency has a pending lawsuit against the state for the Savo Island Loan Payable. In its capacity as the Successor Agency, the City Council voted to enter into litigation with the Department of Finance and the lawsuit was filed on February 22, 2013. Staff clarified the expenses for legal counsel as noted in Line 16 is for litigation expenses and in Line 11 for administrative legal expenses.

A motion to approve the ROPS IV was approved as recommended by staff with additional language noting that funds will not be spent until the Oversight Board and the DOF gives approval that these projects are enforceable obligations. If the projects are not approved by the Oversight Board or DOF as enforceable obligations, the Oversight Board understands the bond proceeds provides no benefits to the taxing agencies and cannot be used to pay off other future obligations and the funds would then go towards defeasance of bond debt. (M/S/C: Hardaway/Decredico. Ayes: Arreguin, Decredico, Gerhard and Hardaway. Noes: Riddle)

**6. Status of Final Determination from Department of Finance regarding the Low Moderate Income Housing Fund Due Diligence Review – Information Item**

After obtaining a Finding of Completion from DOF, Successor Agency staff will request to transfer the housing development loans from the City to the Successor Agency.

**7. Announcements**

- Next regularly scheduled meeting: April 22, 2013

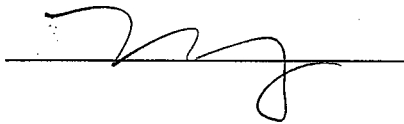
**8. Future Agenda Items**

- Long-term Property Management Plan

**9. Adjourn**

The meeting was adjourned at 4:35 p.m. (M/S/C: Riddle/Decredico. Unanimous)

Approved on 09/23/13

 \_\_\_\_\_, Lourdes Chang, Secretary