

SUCCESSOR AGENCY AGENDA: MARCH 5, 2013

SUBJECT: AMENDMENT TO THE ADMINISTRATIVE BUDGET AND THE RECOGNIZED OBLIGATED PAYMENT SCHEDULE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: At the January 10, 2013, Oversight Board meeting, staff advised the Board of the civil complaint filed by the County of Tulare challenging the validity of the 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1. The Board directed Members Ennis and Hess to request that the County dismiss the Oversight Board from the lawsuit as the Oversight Board was not in existence at the time that the Porterville Redevelopment Agency and the Porterville City Council adopted the Amendment. On behalf of the Board, Members Ennis and Hess drafted a letter to the Tulare county Counsel requesting dismissal, Tulare County Counsel responded to the request that the County could not dismiss the Oversight Board as they felt the Oversight Board is an indispensable party to the lawsuit. Both letters are attached for reference.

At the February 19, 2013, Successor Agency meeting, the Successor Agency adopted Resolution 2013-01 and Resolution 2013-02 to submit the Administrative Budget and the Recognized Obligated Payment Schedule (ROPS 13-14 A) to the Oversight Board for approval (as required by Health & Safety Code section 34177(j), as modified by AB 1484).

At the Oversight Board's regularly scheduled meeting on February 25, 2013, it was anticipated that the amount listed for Professional Services should be higher due to the litigation with the County of Tulare as the Oversight Board cannot respond to the litigation and cannot be represented by the Successor Agency's counsel. As such, the Oversight Board increased the Professional Services budget by \$15,000 for an allocation of \$65,000 to accommodate legal services for defending the Oversight Board in the lawsuit. The change to the Administrative Budget shall also be reflected in the ROPS 13-14 A.

RECOMMENDATION: That the Successor Agency receive the report.

ATTACHMENTS: 1. Letter dated January 16, 2013 requesting dismissal from lawsuit.
2. Tulare County Counsel response
3. Amended Administrative Budget
4. Amended ROPS 13-14 A

DD BA APPROPRIATED/FUNDED MB CM J ITEM NO. SA-01

Kathleen Bales-Lange
Tulare County Counsel
2900 W. Burrel Ave.
Visalia, CA 93291

January 16, 2013

RE: Tulare County Superior Court Case No. 249877, December 14, 2012

Request to Dismiss the Oversight Board to the Successor Agency of the City of Porterville Redevelopment Agency as a Defendant in this Case


The Oversight Board to the Successor Agency of the Porterville Redevelopment Agency held its first meeting on April 11, 2012. Since that time, the Oversight Board members and Successor Agency staff have worked to oversee the dissolution process of the former Porterville Redevelopment Agency as required by California statute. On January 10, 2013, Successor Agency staff provided the Oversight Board with a copy of Tulare County Superior Court Case No. 249877 filed on December 14, 2012 with the Clerk of the Tulare County Superior Court by the County of Tulare.

In summary, this lawsuit appears to be a challenge to the Porterville Redevelopment Agency's and the Porterville City Council's action to add 1,525 acres of territory to the existing Porterville Redevelopment Project No. 1. This new territory was added through an Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 by Ordinance No. 1765 adopted at a joint public hearing of the Porterville Redevelopment Agency and the Porterville City Council on June 15, 2010.

The Oversight Board to the Porterville Successor Agency is listed as a Defendant to Tulare County Superior Court Case No. 249877. The Oversight Board did not exist on June 15, 2010. The Oversight Board has not acted in any way regarding the amended territory and has no authority or involvement in the eight Causes of Action listed in this Case. Furthermore, the Oversight Board has no ability to amend Redevelopment Plans to add or remove territory from Redevelopment Projects or approve California Environmental Quality Act (CEQA) documents. Primarily, Oversight Board members have fiduciary responsibilities to the holders of recognized obligations and any those taxing entities effected by the dissolution process.

For these reasons, on January 10, 2013, the Oversight Board of the Porterville Redevelopment Successor Agency agreed to submit this letter to your office formally requesting that the County of Tulare dismiss the Oversight Board as a listed Defendant in Tulare County Superior Court Case No. 249877.

Sincerely,



Supervisor Mike Ennis, District 5
Oversight Board Member



John L. Hess, Administrative Analyst
Oversight Board Member

Cc: Nina Dong, Tulare County Deputy County Counsel
Jean Rousseau, Tulare County Administrative Officer
John Lollis, Porterville City Manager
Brad Dunlap, Porterville Community Development Director

**ATTACHMENT
ITEM NO. 1**

TULARE COUNTY COUNSEL

County Counsel
Kathleen Bales-Lange

Chief Deputies

Julia J. Roberts
John A. Rozum
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Attorneys

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February 25, 2013

Oversight Board to the Successor Agency
of the City of Porterville Redevelopment Agency
291 N. Main Street
Porterville, CA 93257

Re: Tulare County Superior Court Case No. 249877, December 14, 2012
Request to Dismiss the Oversight Board to the Successor Agency of the City of
Porterville Redevelopment Agency (Oversight Board) as a Defendant in this case

Dear Oversight Board:

Thank you for your letter dated January 16, 2013 by Oversight Board members Ennis and Hess. Your letter requests that the County dismiss the Oversight Board as a defendant in this lawsuit. The County cannot dismiss the Oversight Board because it appears to the County that the Oversight Board is an indispensable party to the lawsuit in that the Oversight Board approves financial redevelopment related actions made by the Successor Agency and may appeal or set-aside a settlement or judgment. A party is indispensable if his or her rights must necessarily be affected by the judgment, or if complete relief cannot be accorded in his or her absence. At this time the County of Tulare denies the Oversight Board's request to be dismissed from the lawsuit. We do not anticipate that the Oversight Board has any obligation to respond to this litigation prior to April 5, 2013 (if the administrative record is filed by March 6, 2013).

Very truly yours,
KATHLEEN BALES-LANGE
County Counsel

By 
Nina F. Dong
Deputy County Counsel

NFD/2/22/2013/20091586/531641

ATTACHMENT
ITEM NO. 2

West's Annotated California Codes

Code of Civil Procedure (Refs & Annos)

Part 2. Of Civil Actions (Refs & Annos)

Title 3. Of the Parties to Civil Actions

Chapter 8. Compulsory Joinder (Refs & Annos)

West's Ann.Cal.C.C.P. § 389

§ 389. Joinder as party, conditions; indispensable person,
factors; statement of reasons for nonjoinder; class actions

Currentness

(a) A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party.

(b) If a person as described in paragraph (1) or (2) of subdivision (a) cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed without prejudice, the absent person being thus regarded as indispensable. The factors to be considered by the court include: (1) to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the person's absence will be adequate; (4) whether the plaintiff or cross-complainant will have an adequate remedy if the action is dismissed for nonjoinder.

(c) A complaint or cross-complaint shall state the names, if known to the pleader, of any persons as described in paragraph (1) or (2) of subdivision (a) who are not joined, and the reasons why they are not joined.

(d) Nothing in this section affects the law applicable to class actions.

Credits

(Enacted in 1872. Amended by 1897, c. 12, p. 9, § 1; Stats.1907, c. 371, p. 704, § 3; Stats.1957, c. 1498, p. 2824, § 2; Stats.1971, c. 244, p. 376, § 15, operative July 1, 1972.)

Editors' Notes

CODE COMMISSION NOTES

2004 Main Volume

**SUCCESSOR AGENCY AND HOUSING AUTHORITY SUCCESSOR AGENCY BUDGET
 JULY 1, 2013 THROUGH DECEMBER 31, 2013**

OBJECT #	ACCOUNT DESCRIPTION	2013-14 BUDGET
	PERSONAL SERVICES	
-01	SALARIES, REGULAR	\$10,795
-02	SALARIES, PART TIME	\$0
-03	SALARIES, OVERTIME	\$0
-09	BENEFITS	\$3,942
	SUB-TOTAL	\$14,737
	MATERIALS, SUPPLIES & SERVICES	
-12	BUILDINGS/GROUNDS MAINTENANCE	\$2,000
-21	ADVERTISING	\$250
-22	PRINTING	\$1,000
-23	PROFESSIONAL SERVICES	\$65,000
-24	COLLECTION COSTS	\$0
-28	ADMINISTRATIVE SERVICES	\$0
-32	OFFICE AND COMPUTER SUPPLIES	\$500
-34	MAINTENANCE & REPAIR MATERIALS	\$0
-41	MEETING EXPENSE	\$750
-42	UTILITIES	\$3,000
-43	UNIFORM ALLOWANCE	\$0
-44	TRAINING EXPENSE	\$750
-45	PUBLICATION AND DUES	\$0
-46	POSTAGE	\$500
-52	INSURANCE, LIABILITY	\$0
-62	DEBT REDEMPTION	\$0
-64	AMORTIZATION	\$0
-65	DEPRECIATION EXPENSE	\$0
-66	OTHER EXPENSES	\$2,775
	SUB-TOTAL	\$76,525
	TOTAL	\$91,262

**ATTACHMENT
 ITEM NO. 3**

SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Filed for the July 1, 2013 to December 31, 2013 Period

Name of Successor Agency: **PORTERVILLE (TULARE)**

Outstanding Debt or Obligation	Total
Total Outstanding Debt or Obligation	\$8,746,868
Current Period Outstanding Debt or Obligation	Six-Month Total
A Available Revenues Other Than Anticipated RPTTF Funding	\$103,832
B Enforceable Obligations Funded with RPTTF	\$164,945
C Administrative Allowance Funded with RPTTF	\$91,262
D Total RPTTF Funded (B + C = D)	\$256,207
E Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i>	\$360,039
F Enter Total Six-Month Anticipated RPTTF Funding	\$448,998
G Variance (F - D = G) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	\$192,791

Prior Period (July 1, 2012 through December 31, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))

H Enter Estimated Obligations Funded by RPTTF (lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed)	\$320,830
I Enter Actual Obligations Paid with RPTTF	\$271,376
J Enter Actual Administrative Expenses Paid with RPTTF	\$29,518
K Adjustment to Redevelopment Obligation Retirement Fund (H - (I + J) = K)	\$19,936
L Adjustment to RPTTF (D - K = L)	\$236,271

Certification of Oversight Board Chairman:

Pursuant to Section 34177(m) of the Health and Safety code,

I hereby certify that the above is a true and accurate Recognized

Obligation Payment Schedule for the above named agency.

Dr. John Snavelly

Name

/s/

Signature

Oversight Board Chair

Title

Date

PORTERVILLE (TULARE)

Pursuant to Health and Safety Code Section 34186 (a)

PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS II)

July 1, 2012 through December 31, 2012

Item #	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	Lump Sum		Bond Proceeds		Reserve Balance		Admin Allowance		BPTT		Other	
					Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual		
A-1	2005 Tax Allocation Bonds Series A	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds	Project Area No. 1 as Amended	50	50	50	50	50	50	50	50	50	50	50	50
A-2	2005 Tax Allocation Bonds Series B	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds	Project Area No. 1 as Amended												
A-3	2005 Tax Allocation Bonds Series C	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds	Project Area No. 1 as Amended												
A-4	2005 Tax Allocation Bonds Series D	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds	Project Area No. 1 as Amended												
A-5	2005 Tax Allocation Bond Reserves	Fund	Reserve account for the 2005 Bonds	Project Area No. 1 as Amended												
A-6	2005 Tax Allocation Bond Admin	US Bank	2005 Bonds administration fees	Project Area No. 1 as Amended												
A-7	2005 Tax Allocation Bond Arbitrage	Arbitrage Compliance Spect	Professional fees to be paid for arbitrage calculations	Project Area No. 1 as Amended												
A-8	Rural Eco Dev Infrastructure Prog	St of Calif Dept of Commerce	Loan from State of California for Porterville Enterprise Zone Infrastructure Project	Project Area No. 1 as Amended												
A-9	Rural Eco Dev Infrastructure Prog Baw	Funded	Required by the State of California and serves as insurance for the loan	Project Area No. 1 as Amended												
C-1	Successor Agency Administration	City of Porterville, Stradling, Yocca, Carlson, & Raath, Rosencow Spratck Group and Galina LP	Successor Agency and Oversight Board administration costs	Project Area No. 1 as Amended						100,000						

Oversight Board Approval Date: _____

PORTERVILLE (TULARE)
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14)
 July 1, 2013 through December 31, 2013

Item #	Project Name / Debt Obligation	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation 6/30/2013	Total Due During 2013-14	Funding Source					Six-Month Total
									Bond Proceeds	Reserve Balance	Admin Allowance	RPTTF	Other	
1	2008 Tax Allocation Bonds Series A	9/16/2008	6/7/2040	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds.	Project Area No. 1 as Amended	4,155,000	382,643.6	50	0	591,262	11,941	5103,832	5160,039
2	2008 Tax Allocation Bonds Series B	9/16/2008	6/7/2040	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds.	Project Area No. 1 as Amended	1,960,000	187,419	0	0	0	81,209	0	81,209
3	2008 Tax Allocation Bonds Series C	9/16/2008	6/7/2040	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds.	Project Area No. 1 as Amended	1,055,000	78,735	0	0	0	29,368	0	29,368
4	2008 Tax Allocation Bonds Series D	9/16/2008	6/7/2040	US Bank	Issuance of the Agency's Tax Allocation Refunding Bonds.	Project Area No. 1 as Amended	600,000	54,681	0	0	0	24,841	0	24,841
5	2008 Tax Allocation Bond Reserves	9/16/2008	6/7/2040	Funded	Reserve account for the 2008 Bonds.	Project Area No. 1 as Amended	635,453	0	0	0	0	0	0	0
6	2008 Tax Allocation Bond Admin.	9/16/2008	6/7/2040	US Bank	Administration fees from US Bank - Trustee	Project Area No. 1 as Amended	3,650	3,650	0	0	0	3,650	0	3,650
7	2008 Tax Allocation Bond Arbitrage	9/16/2008	6/7/2040	Arbitrage Compliance Specialist	Professional fees to be paid for arbitrage calculation	Project Area No. 1 as Amended	45,000	0	0	0	0	0	0	0
8	Rural Eco. Dev. Infrastructure Prog.	11/13/1991	12/31/2016	St. of Ca. Dept of Commerce	Loan from St. of Ca. for Porterville Enterprise Zone Infrastructure Project.	Project Area No. 1 as Amended	91,952	27,872	0	0	0	13,936	0	13,936
9	Rural Eco. Dev. Infrastructure Prog. Reserve	11/13/1991	12/31/2016	Funded	Required by the St of Ca. and serves as insurance for the loan	Project Area No. 1 as Amended	33,289	0	0	0	0	0	0	0
10	Loan for Formation of Area	4/7/1981		City of Porterville	Agreement for formation of Project Area #1. Ordinance No. 1222. Ordinance 1526. Reso 9578 and 12A 813	Project Area No. 1 as Amended	0	0	0	0	0	0	0	0
11	Loan for repayment to County	5/7/2007	5/7/2013	City of Porterville	Original loan from County of Tulare, which was paid in full by the City of Porterville by loaning funds to Redevelopment for the payback. Rate 31.0007	Project Area No. 1 as Amended	0	0	0	0	0	0	0	0
12	Loan for Parking Lot Improvements - Storm Drain	11/22/1997		Risk Management	Parking lot improvements within the Redevelopment Area	Project Area No. 1 as Amended	0	0	0	0	0	0	0	0
13	Loan for Reconfiguration of Parking Lot - Hockett Street	6/19/2007	7/7/2019	Risk Management	Resolution 42-27 and 13-97	Project Area No. 1 as Amended	0	0	0	0	0	0	0	0
14	Loan for Amendment of the Boundaries of Project Area No. 1	8/7/2010	7/7/2044	City of Porterville	Parking Lot Reconfiguration. Resolution 56-2007	Project Area No. 1 as Amended	0	0	0	0	0	0	0	0
15	Successor Agency Administration			City of Porterville	Loan from Porterville Civic Development Foundation to the Agency. Loan from City to Agency which paid the loan in full in May 2011. Resolution 103-2010. Agency Administration cost.	Project Area No. 1 as Amended	167,524	167,524	0	0	91,262	0	0	91,262