



CITY OF CARSON

Legislation Text

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Report to Successor Agency

Tuesday, January 28, 2020

Discussion

SUBJECT:

CONSIDER RESOLUTION NO. 20-02-CSA, A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CARSON REDEVELOPMENT AGENCY AUTHORIZING THE ISSUANCE OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$90,000,000 TO FULFILL AN ENFORCEABLE OBLIGATION TO ASSIST IN THE REMEDIATION OF CERTAIN CONTAMINATED PROPERTY PURSUANT TO AN OWNER PARTICIPATION AGREEMENT, AS IMPLEMENTED AND SUPPLEMENTED BY A SETTLEMENT AGREEMENT, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT, APPROVING THE PRELIMINARY OFFICIAL STATEMENT AND THE FINAL OFFICIAL STATEMENT, AND AUTHORIZING TAKING OTHER ACTIONS RELATED THERETO; AND, RESOLUTION NO. 20-03-CSA, AUTHORIZING THE ISSUANCE OF BONDS TO REFUND CERTAIN OUTSTANDING BONDS OF THE FORMER REDEVELOPMENT AGENCY, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A FIRST SUPPLEMENTAL INDENTURE, BOND PURCHASE AGREEMENTS, ESCROW AGREEMENTS AND CONTINUING DISCLOSURE AGREEMENTS, APPROVING THE PRELIMINARY OFFICIAL STATEMENT AND THE FINAL OFFICIAL STATEMENT, AND AUTHORIZING TAKING OTHER ACTIONS RELATED THERETO; AND, AMENDMENT NO. 3 TO AN AGREEMENT FOR CONTRACT SERVICES WITH DHA CONSULTING, LLC FOR FINANCIAL CONSULTANT SERVICES RELATED TO THE 2020 BOND ISSUES IN AN AMOUNT NOT TO EXCEED \$50,000; AND, A CONTINGENT PAYMENT OF \$7,500 TO HARRELL & COMPANY ADVISORS FOR THE PREPARATION OF BOND DOCUMENTS RELATED TO 2020 SERIES C BONDS IF THE BONDS ARE NOT ISSUED (SUCCESSOR AGENCY)

I. SUMMARY

The Dissolution Act permits successor agencies to refinance outstanding bonds or other obligations of a former redevelopment agency under certain circumstances. These actions are for the issuance of new bonds (2020 Tax Allocation Bonds Series C) and the refinancing of two current bond issues, described below (through Series A and B). The refinancing of the current bond issues creates a cash flow savings of nearly \$8,000,000 in total debt service saving, which will help to offset additional debt service created by the

2020 Series C bonds, reducing the impact on the taxing agencies that receive property tax distributions through the Successor Agency's Recognized Obligations Payment Schedule (ROPS).

The actions tonight are to approve the issuance of 2020 Series A Bonds to Refund Housing Tax Allocation Bonds 2010A and 2010A-T on a taxable basis; Series B Bonds to Refund 2007 Bonds on parity with 2015B; and new bonds Series C, which would be subordinate to 2015B and 2020B. The debt service savings resulting from the Series A and B refundings will help to increase the coverage and cash flow for the Series C Bonds.

In addition, included for approval is an amendment to an agreement with the Successor Agency's Financial Consultant, Diane Hadland & Associates, LLC ("DHA"), for additional scope specifically related to these bond issues. Other consultants related to the bond issues such as the financial advisor, underwriters and bond counsel work on a contingency basis and are paid from the bond proceeds, but the FC's work is front-loaded and not a contingent fee. The Agency recently approved an amendment last fall with DHA for regular redevelopment reporting, continuing bond disclosure, and the preparation of the ROPS, but not for doing the cash flow work required for these bond issues because they were not contemplated at that time. As part of that approval, the Agency determined DHA Consulting, LLC to be a sole source vendor as authorized under Carson Municipal Code Section 2611(e) ("Sole Source Purchasing") and waived the bidding requirements in Chapter 6 ("Purchasing System") of Title II of the Carson Municipal Code, pursuant to Carson Municipal Code Section 2611(e) ("Sole Source Purchasing").

Also included for approval is a contingent payment to Harrell & Company Advisors that, in the event that DOF does not approve the Series C Bonds, or the City abandons the Series C financing, would pay \$7,500 for the preparation of the draft of the POS, the Debt Service Analysis, the Bond Purchase Agreement and the Continuing Disclosure Agreement for the Series C Bonds to be issued for the remediation costs, as well as the review of the resolution and documents prepared by Bond Counsel. This relates to the items needed for the Successor Agency agenda in connection with the approval of the Series C Bonds. If the Successor Agency proceeds with the issuance of Series C, they would be compensated at bond closing pursuant to a service contract to be entered into.

In connection with the items needed for the Successor Agency agenda for approval of the Series A and B Bonds, they will not charge for the preparation of the POS, the Debt Service Analyses, the Bond Purchase Agreements and the Continuing Disclosure Agreements for the Series A and B Bonds to be issued for refunding of the 2010 Bonds and 2007 Bonds, or the review of the resolution and documents prepared by Bond Counsel. If the Successor Agency proceeds with the refunding of those bonds (with or without issuing Series C), they will be compensated at bond closing pursuant to a service contract to be entered into. The contingent risk on the Series C bonds is beyond the normal market risk a financial advisor or underwriter would take, which is typically the acceptance of the bonds in the financial market.

II. RECOMMENDATION

1. WAIVE further reading and ADOPT RESOLUTION NO. 20-02-CSA, “A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CARSON REDEVELOPMENT AGENCY AUTHORIZING THE ISSUANCE OF BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$90,000,000 TO FULFILL AN ENFORCEABLE OBLIGATION TO ASSIST IN THE REMEDIATION OF CERTAIN CONTAMINATED PROPERTY PURSUANT TO AN OWNER PARTICIPATION AGREEMENT, AS IMPLEMENTED AND SUPPLEMENTED BY A SETTLEMENT AGREEMENT, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT, APPROVING THE PRELIMINARY OFFICIAL STATEMENT AND THE FINAL OFFICIAL STATEMENT, AND AUTHORIZING TAKING OTHER ACTIONS RELATED THERETO” (SUCCESSOR AGENCY); and
2. WAIVE further reading and ADOPT RESOLUTION NO. 20-03-CSA, “A RESOLUTION OF THE SUCCESSOR AGENCY TO THE CARSON REDEVELOPMENT AGENCY AUTHORIZING THE ISSUANCE OF BONDS TO REFUND CERTAIN OUTSTANDING BONDS OF THE FORMER REDEVELOPMENT AGENCY, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A FIRST SUPPLEMENTAL INDENTURE, BOND PURCHASE AGREEMENTS, ESCROW AGREEMENTS AND CONTINUING DISCLOSURE AGREEMENTS, APPROVING THE PRELIMINARY OFFICIAL STATEMENT AND THE FINAL OFFICIAL STATEMENT, AND AUTHORIZING TAKING OTHER ACTIONS RELATED THERETO” (SUCCESSOR AGENCY).
3. APPROVE Amendment No. 3 to an Agreement for Contract Services with DHA Consulting, LLC for Financial Consultant Services related to the 2020 Bond Issues, Series A, B and C, in an additional amount not to exceed \$50,000, in a form acceptable to Agency Counsel.
4. AUTHORIZE the Agency Chairman to execute the Amendment No. 3 following approval as to form by the Agency Counsel.
5. AUTHORIZE a contingent payment to Harrell & Company Advisors in the event the Agency does not issue Series C Bonds or abandons the Series C financing, in the amount of \$7,500 for the preparation of the draft of the POS, the Debt Service Analysis, the Bond Purchase Agreement and the Continuing Disclosure Agreement for the Series

C Bonds to be issued for the remediation costs, as well as the review of the resolution and documents prepared by Bond Counsel.

1.

III. ALTERNATIVES

Take another action deemed appropriate by the Board.

IV. BACKGROUND

The Remediation of the 157 Acre Property is considered to be the most complex environmental remediation project in California, and involves solving the geotechnical problem of developing on a landfill along with protecting groundwater, air quality and human health, including the installation nearly 10,000 structural piles and the Carson Reclamation Authority has made great progress performing the Remediation activities. The Carson Reclamation Authority has requested the Successor Agency, in furtherance of its obligations under the OPA and the Settlement Agreement, to issue up to \$90,000,000 in Bonds to complete the Remediation Activities.

Former RDA and Successor Agency

Pursuant to California Health and Safety Code Section 34177.5(a)(4), the Successor Agency may issue bonds or incur indebtedness to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment, or other funds and the obligation to issue bonds secured by that pledge. Over the life of the Agency, the Carson Redevelopment Agency and/or Successor Agency issued the following bonded indebtedness:

- (a) Carson Redevelopment Agency Redevelopment Project Area No. 1 Tax Allocation Refunding Bonds, Series 2003B;
- (b) Successor Agency to the Redevelopment Agency of the City of Carson Redevelopment Project Area No. 1 Tax Allocation Refunding Bonds, Series 2014A;
- (c) Successor Agency to the Redevelopment Agency of the City of Carson Tax Allocation Refunding Bonds Series 2016A (Project Area No. 1 Second Lien; RPTTF Secured) (Taxable);
- (d) Successor Agency to the Redevelopment Agency of the City of Carson Tax Allocation Refunding Bonds Series 2017A (Project Area No. 1 Second Lien; RPTTF Secured) (Taxable);
- (e) Successor Agency to the Redevelopment Agency of the City of Carson Merged and Amended Project Area Tax Allocation Refunding Bonds, Series 2014A;
- (f) Carson Redevelopment Agency Merged and Amended Project Area Subordinate Lien

Tax Allocation Refunding Bonds, Series 2007A;

(g) Carson Redevelopment Agency Tax Taxable Allocation Housing Bonds 2010 Series A-T;

(h) Carson Redevelopment Agency Tax Allocation Housing Bonds 2010 Series A;

(i) Successor Agency to the Redevelopment Agency of the City of Carson Subordinate Tax Allocation Refunding Bonds, 2015 Series B (Taxable); and

(j) Successor Agency to the Redevelopment Agency of the City of Carson Tax Allocation Refunding Bonds Series 2018 (Project Area No. 4)

The Existing Debt is payable from former tax increment moneys and/or moneys in the RPTTF.

157 Acre Property and Agency Assistance

Prior to dissolution, the Redevelopment Agency assisted the cleanup of numerous properties which were undevelopable due the presence of hazardous waste or other site conditions; one such property was an unimproved parcel of real property spanning approximately 157-acres (collectively, the "157-Acre Property"), the former Cal Compact Landfill.

On October 25, 1995, the California Department of Toxic Substances Control ("DTSC") approved a Remedial Action Plan for portions of the 157-Acre Property, which requires the installation, operation and maintenance of certain remedial systems, including a landfill cap, gas extraction and treatment system, and groundwater collection and treatment system on the 157-Acre Property.

In a lawsuit initiated by DTSC entitled California Department of Toxic Substances Control v. Commercial Realty Projects, Inc., et al. (U.S. District Court, Central District of California, Civil Action No. 95-8773), the court entered a Consent Decree on December 9, 1996; resolving claims against Atlantic Richfield Company, et al. on March 29, 2001; a Supplemental Consent Decree on March 29, 2001; and Modifications by Consent to Supplemental Consent Decree and Defense Group Decree on March 29, 2001.

In 2006, following years of negotiations, the former Redevelopment Agency and Carson Marketplace, LLC ("CM"), then owner of the 157-Acre Property, entered into the Owner Participation Agreement, dated July 25, 2006 ("Original OPA"), for the development of the 157-Acre Property for commercial retail use, hotel use and low income housing. Pursuant to the Original OPA, the Redevelopment Agency promised assistance related to the development of the former landfill due to the difficulty of effectuating such development and for the purpose of carrying out the redevelopment plan objectives subject to the following principles: (i) the assistance would not be for private improvements but for remediation of contamination and construction of public improvements, (ii) a remediation contract with an independent contractor should assure performance for a fixed price, (iii) the assistance from the Redevelopment Agency should be derived from tax revenues earmarked for construction of public improvements, affordable housing and from new revenues derived as a result of the 157-Acre Property development with no assistance from the general

funds of the City, (iv) the revenues resulting to the City should be sufficient to pay for general costs of services provided to the development by City, (v) the assistance should not exceed the warranted level and not give participant an excessive return.

The Redevelopment Agency undertook several revisions to the Original OPA to provide additional assistance in 2008 and 2009, recognizing the complexity of the issues related to the parcel and in the ensuing years issued several series of tax allocation bonds to provide such assistance but fell short of providing all the required assistance. The Redevelopment Agency and CM were in the process of additional negotiations when the Redevelopment Agency was dissolved; and CM threatened suit over the remaining obligations and future additional funding.

In 2015, CM, the City of Carson, the Successor Agency and the Reclamation Authority entered into the Settlement, Release and Indemnity Agreement ("Settlement Agreement"). However, due to dissolution of the Redevelopment Agency and the determination of the CM not to complete the project, new negotiations with owners of the then-San Diego Chargers ("Chargers") for a National Football League stadium on the 157-Acre Property ensued; agreements with the Chargers then required that the public agency own the Property, not the Chargers. For environmental liability reasons, the Settlement Agreement required that the Reclamation Authority, instead of the Redevelopment Agency, acquire the property and complete the Remediation of the property with funds from \$50.5 million of bonds to be issued by the Successor Agency. In 2015, the Successor Agency issued a series of bonds to further fund Remediation related to the 157-Acre Property.

Following the award of the NFL stadium to the City of Inglewood by the NFL, the Reclamation Authority reaffirmed its plan for commercial and other uses on the 157-Acre Property and entered into agreements with other developers. All other developers require a remediated property for development.

Issuance of 2020 Tax Allocation Bonds

In 2015, the Department of Finance ("DOF") accepted the OPA and the Settlement Agreement as enforceable obligations of the Successor Agency. The Successor Agency now desires to issue not to exceed \$90,000,000 of its bonds designated as "Successor Agency to the Carson Redevelopment Agency Taxable Tax Allocation Bonds, Series 2020C" (the "Series 2020 Bonds"), which Series 2020 Bonds may be issued in one or more series, taxable or tax-exempt, secured by funds constituting former tax increment revenues deposited in the Redevelopment Property Tax Trust Fund created pursuant to Section 34170.5(b) of the Law ("RPTTF").

On September 4, 2018, the City Council directed staff to solicit proposals for financial advisor, underwriter and disclosure counsel to provide services in connection with an anticipated bond issue to finance street improvements using Measure R and Measure M sales tax revenue. The same group was selected by the RFP process in October 2018 to be the financial advisor on the 2007 TAB refunding, but then later the City decided not to proceed because the financial benefit to the City was not significant.

On February 5, 2019, the City Council awarded contracts for those services to Harrell &

Company Advisors (financial advisor), Piper Sandler Companies and Cabrera Capital (underwriters) and Nixon Peabody (disclosure counsel). Aleshire & Wynder acts as the City's bond counsel for these bonds. Due to the timely nature of this project, staff directed the same consultants to prepare the documents necessary for the approval of these Carson Redevelopment Agency (Successor Agency) bond issues.

The Series 2020 Bonds will be secured on a subordinate basis to Existing Debt, pass-through obligations, and administrative expenses. The Successor Agency has prepared a draft of the Preliminary Official Statement for the Series 2020 Bonds ("Preliminary Official Statement"), and in order to comply with Rule 15c2-12 of the Securities and Exchange Commission, authorize the execution and delivery of a continuing disclosure agreement by and between the Successor Agency and Digital Assurance Certification, LLC, as dissemination agent (the "Continuing Disclosure Agreement").

Authorization Process

In addition to the approval by the Successor Agency, pursuant to Health and Safety Code Section 34179, the Second District of the Los Angeles County Consolidated Oversight Boards (the "Oversight Board") has been established and maintains jurisdiction over the City.

If the Board takes the recommended action and adopts the resolution authorizing the refinancing of the bonds, the Oversight Board will be presented with a companion resolution approving the action taken by the Board. This Oversight Board action must be submitted to and approved by the DOF for conformity with the provisions of HSC 34177.5 (a)(1). DOF can take up to 60 days from the time the Oversight Board resolution is submitted to approve the financing.

Resolution 20-03-CSA presented for Successor Agency Board approval authorizes the issuance of the Refunding Bonds in two series, and approves the forms of the following documents:

- Resolution 20-03-CSA
- Indenture (Series A)
- First Supplemental Indenture (Series B)
- 2010 Escrow Agreement (2020 Series A)
- 2007 Escrow Agreement (2020 Series B)
- Preliminary Official Statement
- Bond Purchase Agreement Series A
- Bond Purchase Agreement Series B

- Debt Service Savings Analysis Series A
- Debt Service Savings Analysis Series B
- Continuing Disclosure Agreement Series A (included in POS already per the resolution)
- Continuing Disclosure Agreement Series B (included in POS already per the resolution)

Resolution 20-02-CSA presented for Successor Agency Board approval authorizes the issuance of the 2020 Series C Bonds (new debt), and approves the forms of the following documents:

- Resolution 20-02-CSA
- Indenture (Series C)
- Preliminary Official Statement
- Bond Purchase Agreement Series C
- Debt Service Analysis Series C
- Continuing Disclosure Agreement Series C (included in POS already per the resolution)

The Resolution also approves the distribution of the preliminary official statement for the bonds, entering into the Bond Purchase Contract with Piper Sandler Companies and Cabrera Capital to underwrite the bonds and authorize any other actions needed in connection with the bonds. The Preliminary Official Statement is included with this report for the Board's review, and the forms of the other documents are on file with the City Clerk. The resolution authorizes the City Manager, as the chief administrative officer of the Successor Agency, to enter into the Bond Purchase Contract so long as the principal amount does not exceed \$90,000,000 for Series C and \$45,000,000 in the aggregate for Series A and B and the debt service savings from A and B meet the requirements of 34177.5(a)(1) of the Dissolution Act.

The bonds are expected to be sold in April after DOF approval is received.

The Board members are asked to review the description of the Successor Agency and the financial information relating to the Successor Agency's finances that are included in the Preliminary Official Statement and communicate any changes to staff.

Staff has prepared a resolution for consideration by the Oversight Board to direct the Successor Agency to refinance the 2010 Bonds and the 2007 Bonds, and issue the Series C Bonds. If the Board adopts the resolution approving the refinancing, the Oversight Board resolution will be presented to the Oversight Board at their next meeting.

V. FISCAL IMPACT

The total savings of the Series A and Series B bonds are anticipated to be \$400,000 to \$500,000 per year. The anticipated debt service on the Series C bonds is approximately \$8,000,000 to 8,500,000 per year. This debt would be pledged from funds received by the Successor Agency based on property tax increment from growth and development within the various project areas of the former Redevelopment Agency. Except for the Financial Consultant Contract and the potential contingency payment to the Financial Advisor (for preparation of the POS and other documents, only if Series C does not proceed), the costs are contingent and are payable from the proceeds of the Bonds. The Dissolution Act also provides that staff costs related to refunding proceedings can be recovered as authorized by HSC §34177.5(f).

VI. EXHIBITS

1. Resolution 20-03-CSA (pgs. 11-20)
2. Indenture (Series A) (pgs. 21-81)
3. First Supplemental Indenture (Series B) (pgs. 82-105)
4. 2010 Escrow Agreement (2020 Series A) (pgs. 106-119)
5. 2007 Escrow Agreement (2020 Series B) (pgs. 120-131)
6. Preliminary Official Statement (pgs. 132-220)
7. Bond Purchase Agreement Series A (pgs. 221-238)
8. Bond Purchase Agreement Series B (pgs. 239-260)
9. Debt Service Savings Analysis Series A (pgs. 261-271)
10. Debt Service Savings Analysis Series B (pgs. 272-280)
11. Resolution 20-02-CSA (pgs. 281-293)
12. Indenture (Series C) (pgs. 294-354)
13. Preliminary Official Statement (pgs. 355-426)
14. Bond Purchase Agreement Series C (pgs. 427-444)
15. Debt Service Analysis Series C (pgs. 445-448)
16. Amendment No. 3 to an Agreement for Contract Services with DHA Consulting, LLC (pgs. 449-458)

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