

STAFF REPORT

CITY OF SAN LEANDRO SUCCESSOR AGENCY OVERSIGHT BOARD

DATE: February 27, 2013

TO: Successor Agency Oversight Board

FROM: Jeff Kay, Administrative Analyst

SUBJECT: Recognized Obligation Payment Schedule for enforceable obligation payments and administrative budget for the period from July 1 through December 31, 2013

SUMMARY AND RECOMMENDATION

Staff recommends that the Successor Agency Oversight Board approve by resolution the Recognized Obligation Payment Schedule and administrative budget for the period from July 1 through December 31, 2013 pursuant to Section 34177 of the State of California Health and Safety Code.

BACKGROUND

Pursuant to AB x1 26, on January 9, 2012, the City Council affirmed its decision to have the City serve as the Successor Agency to the former Redevelopment Agency (Agency). Under AB x1 26, the Successor Agency, is obligated to prepare a Recognized Obligation Payment Schedule ("ROPS") every six months that lists all enforceable obligations payable during the next six month period. Assembly Bill 1484 changed the deadline for submitting the each ROPS and the current ROPS is due to the Department of Finance (DOF) on March 1, 2013, or 90 days before the scheduled distribution from the Redevelopment Property Tax Trust Fund. This ROPS was approved by the City Council, serving as Successor Agency, on February 19, 2013. The Successor Agency can only pay obligations that are listed on the ROPS.

Analysis

A primary responsibility of the Successor Agency is to oversee the payment of Enforceable Obligations. Enforceable Obligations are defined as:

- Bonds, including debt service reserve set asides and any other required payments;
- Loans borrowed by the Agency;
- Payments required by the federal or state governments;
- Pension and unemployment payments for Agency employees;
- Judgments, settlements or binding arbitration decisions; and
- Any legally binding and enforceable contract that does not violate the debt limit or public policy.

The obligations listed on the ROPS for July through December 2013 are the same as those in the previous ROPS, with three additions which are noted below.

City-Agency Agreements

After the approval of each previous version of the San Leandro ROPS, the DOF exercised its right to conduct a review of the list of Enforceable Obligations. Upon completion of those reviews, the DOF informed the Successor Agency that it does not consider some items to be enforceable because AB x1 26 does not recognize agreements between a redevelopment agency and the city that created it. This determination related to a loan from the City General Fund to the Joint Redevelopment Project Area with a balance of \$2.1 million and four Cooperative Agreements to fund \$9.1 million in capital improvement projects.

In response to the DOF's initial determination, the Successor Agency and Oversight Board exercised a power granted in Health and Safety Code Section 34178 to re-authorize those agreements in May 2012. Assembly Bill 1484, which went into effect on June 27, 2012, revises that section of the code, limiting an Oversight Board's ability to re-authorize agreements. DOF's continued objection suggests that it interprets AB 1484 to have a retroactive effect on these actions.

After the denial of these agreements on the ROPS for January-June 2013, staff requested and received a meet-and-confer appointment with DOF staff and presented full documentation of the re-authorizations executed in May 2012. After that meeting, however, DOF continued to deny the validity of these obligations. The Successor Agency's legal counsel advises that these obligations are valid and legal. No other administrative remedies are available to the Successor Agency at this point. A lawsuit to challenge the DOF's interpretation may be necessary in the future. The obligations remain on the ROPS but DOF has prohibited the Successor Agency from receiving any funding under them.

If it is unable to establish the validity of these City-Agency agreements through other means, the Successor Agency may opt to take advantage of a clause in AB 1484 which would allow repayment of loans made by cities to redevelopment agencies upon compliance with certain requirements. That clause, however, would strictly limit the amount of the payments and requires 20 percent of all payments to be dedicated to affordable housing, among other restrictions. That clause would not provide a mechanism for restoring funding for the capital projects funded through the Cooperative Agreements.

King Parcel Settlement

One new obligation has been added to this version of the ROPS, covering the Successor Agency's obligation under a settlement agreement for a legal dispute related to a ground lease guarantee for property adjacent to Bayfair Center. The total amount of the obligation is \$7.75 million and the funding requested for this ROPS period is \$1 million. This obligation replaces the King Ground Lease Guarantee (ROPS Item #15).

Litigation Expenditures

Health and Safety Code Section 34171(b) states that litigation expenses do not count against the administrative budget allowance. The Successor Agency has two active or potential claims

against the DOF. Both of these matters have been added to the ROPS along with estimated expenditures.

Administrative Budget

The ROPS also contains an administrative budget for the Successor Agency. Based on direction from the DOF, the amount of the administrative allowance is the greater of 3% of funds received from the Redevelopment Property Tax Trust Fund or \$250,000 annually. For San Leandro, the 3% factor will apply, resulting in an administrative allowance for this six-month period of \$157,000.

The Oversight Board is scheduled to approve this ROPS on February 27, 2013 and it will be forwarded to the DOF, the State Controller's Office and the Alameda County Auditor Controller after that action is finalized.

The estimated administrative budget for July through December 2013 follows:

Staff Position	% Allocated	Cost Allocation
P/T Administrative Assistant	50%	\$ 6,800
Administrative Analyst	20%	15,100
Project Specialist II	20%	15,200
Business Development Manager	25%	26,700
Planning/Housing Manager	10%	9,300
Finance Staff	Various	37,500
Legal Expenditures		46,400
Total Administrative Budget		\$ 157,000

RESOLUTION NO. 2013-003 OB

**RESOLUTION OF THE OVERSIGHT BOARD
FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN LEANDRO**

**APPROVING THE RECOGNIZED OBLIGATION PAYMENT
SCHEDULE (ROPS) FOR THE PERIOD JULY 1 - DECEMBER 31, 2013**

WHEREAS, pursuant to Resolution No. 2012-001, adopted by the City Council of the City of San Leandro on January 9, 2012, the City of San Leandro (“City”) agreed to serve as the Successor Agency to the Redevelopment Agency of the City of San Leandro (the “Successor Agency”) commencing upon the dissolution of the Agency on February 1, 2012;

WHEREAS, pursuant to Health and Safety Code Section 34177(l), before each six-month fiscal period, the Successor Agency to a dissolved Redevelopment Agency is required to adopt a Recognized Obligation Payment Schedule (“ROPS”) that lists all of the obligations that are “enforceable obligations” within the meaning of Health and Safety Code Section 34177, and which identifies a source of payment for each such obligation from among (i) the Low and Moderate Income Housing Fund, (ii) bond proceeds, (iii) reserve balances, (iv) the administrative cost allowance, (v) revenues from rents, concessions, interest earnings, and asset sales, and (vi) the Redevelopment Property Tax Trust Fund established by the County Auditor-Controller to the extent no other source of funding is available or payment from property tax is contractually or statutorily required;

WHEREAS, on February 19, 2013, the Successor Agency to the Redevelopment Agency of the City of San Leandro approved the ROPS for the period July 1 - December 31, 2013;

WHEREAS, the ROPS must be concurrently submitted to the County Administrative Officer, the County Auditor-Controller, the State Department of Finance, and the Oversight Board established to review Successor Agency actions; and

WHEREAS, once the ROPS is approved by the Oversight Board, the ROPS must be posted on the Successor Agency’s website and transmitted to the County Auditor -Controller, the State Controller and the State Department of Finance.

NOW THEREFORE, the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of San Leandro hereby resolves as follows:

1. The Recognized Obligation Payment Schedule (ROPS) for July 1 – December 31, 2013 attached hereto as Exhibit A is hereby approved.
2. The Executive Director or designee of the Successor Agency is authorized and directed to take all actions necessary to implement this Resolution, including without limitation, the submittal of the ROPS to the County Administrative Officer, the County Auditor-Controller, the

State Department of Finance and the State Controller, and the posting of this Resolution and the ROPS on the City's website.

3. The Executive Director and the Treasurer of the Successor Agency, and their designees, are authorized and directed to take such actions as necessary and appropriate to carry out and implement the intent of this Resolution, including without limitation, the establishment of separate accounts and funds as necessary to appropriately document the receipts and expenditures of the Successor Agency.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE OVERSIGHT BAORD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN LEANDRO ON FEBRUARY 27, 2013 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Secretary

Chair