

STAFF REPORT

CITY OF SAN LEANDRO SUCCESSOR AGENCY OVERSIGHT BOARD

DATE: February 26, 2014

TO: Successor Agency Oversight Board

FROM: Jeff Kay, Business Development Manager

SUBJECT: Recognized Obligation Payment Schedule for enforceable obligation payments and administrative budget for the period from July 1 through December 31, 2014

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, 2014 pursuant to Section 34177 of the State of California Health and Safety Code.

BACKGROUND

Pursuant to Assembly Bill 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). Assembly Bill 1484, passed by the State Legislature on June 27, 2012, modified AB x1 26 to clarify that successor agencies are separate legal entities from the city that formed the redevelopment 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. Approval of the ROPS by the Successor Agency Oversight Board is also required prior to submission to the California Department of Finance (DOF). The Successor Agency can only pay obligations that are listed on the ROPS and approved by the State Department of Finance (DOF).

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 ROPS for July through December 2014 (known as ROPS 14-15A) does not include any new obligations that were not included on the previous ROPS. The following obligations remain the subject of ongoing dispute between the Successor Agency and the DOF:

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 \$2.1million (ROPS Obligation #9) and four Cooperative Agreements to fund \$9.1 million in capital improvement projects (ROPS Obligations #27-30).

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. After that meeting, however, DOF has continued to deny the validity of these obligations. No other administrative remedies are available to the Successor Agency at this point. A lawsuit to challenge the DOF's interpretation was filed in December 2013 and a hearing date of July 18, 2014 has been set. The Successor Agency is presently awaiting a trial date. 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.

Alameda Housing Associates (BRIDGE) Loan Agreement

The DOF previously denied the validity of the remaining balance (approximately \$7m) of a \$9.1m Redevelopment Agency loan to Alameda Housing Associates for the construction of the Cornerstone project. The DOF, through the Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review process, also demanded that the Successor Agency remit a fund balance of \$3.9m that had been reserved for this obligation. The Successor Agency filed a legal challenge to these determinations and a settlement in July 2013 resolved the issues in the Successor

Agency's favor. The remaining balance on this obligation is expected to be fully paid by June 2014. Beginning with the ROPS for July-December 2014, no further payments will be included for this project and it can be considered a retired obligation.

Administrative Budget

The ROPS also contains an administrative budget for the Successor Agency. Based on direction from the California Department of Finance, 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 the July-December 2014 ROPS period, the \$250,000 floor will apply. The administrative costs included on this ROPS total \$125,000 in staff (\$105,000) and legal (\$20,000) costs, representing half of one year's allowance.