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Title: Staff Report for a Resolution of the Successor Agency to the Redevelopment Agency of the City of San Leandro Adopting a Recognized Obligation Payment Schedule (ROPS) for the Period January 1 - June 30, 2016, Pursuant to Health and Safety Code Section 34177(l)

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Staff Report for a Resolution of the Successor Agency to the Redevelopment Agency of the City of San Leandro Adopting a Recognized Obligation Payment Schedule (ROPS) for the Period January 1 - June 30, 2016, Pursuant to Health and Safety Code Section 34177(l)

RECOMMENDATIONS

Staff recommends that the governing board of the Successor Agency to the Redevelopment Agency of the City of San Leandro adopt a Resolution approving a Recognized Obligation Payment Schedule for the period from January 1 through June 30, 2016 (ROPS 15-16B).

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 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 January through June 2016 (known as ROPS 15-16B) includes one new obligation that was not included on the previous ROPS. That obligation is a City advance to the Successor Agency to provide short term cash needed to fulfill other enforceable obligations. The need for this advance, described in more detail in file No. 15-512, results from issues that came out of the DOF's review of the previous ROPS. Assuming this new obligation is approved by the Successor Agency, the Oversight Board, and the DOF, it will be repaid in full in January 2016 and removed from the ROPS in the future.

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, arguing that 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 (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 the 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, revised that section of the code, limiting an Oversight Board's ability to re-authorize agreements. The DOF interpreted AB 1484 to have a retroactive effect on these actions, an assertion that the Successor Agency disputed.

After the denial of these agreements on the ROPS for January-June 2013, staff requested and received a meet-and-confer appointment with the DOF. After that meeting, however, the DOF continued to deny the validity of the obligations. No other administrative remedies were available to the Successor Agency at that point. A lawsuit to challenge the DOF's interpretation was filed in December 2013 and a hearing was held on July 18, 2014. A decision published on September 25, 2014 found that the Successor Agency actions to re-enter into these agreements were valid and that the DOF had abused its discretion in rejecting these items on the ROPS. In a letter received on May 14, 2015, the DOF informed the Successor Agency that it will no longer dispute these items and they will be approved on future ROPS. The lawsuit was subsequently dismissed.

Consequently, items #9 and 27-30 are now deemed approved enforceable obligations. While the dispute was ongoing, the due dates for several payments passed by. Therefore, ROPS 15-16B includes a request for the majority of funding due under the \$2.1 million General Fund loan and the full \$1.5 million due for the Eden Road construction project. The remaining funding will be included on future versions of the ROPS consistent with the payment schedules included in the original funding agreements.

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 the January through June 2016 ROPS period, the 3% factor will apply. The administrative costs included on this ROPS total \$180,000 in staff and legal costs.

The Oversight Board is scheduled to approve this ROPS on September 23, 2015 and it will be forwarded to the DOF, the State Controller's Office and the Alameda County Auditor Controller after that action is finalized.

Previous Actions

- On January 9, 2012, the City Council affirmed its decision to have the City serve as the Successor Agency for the former Redevelopment Agency and to retain the Agency's housing assets and functions.
- On April 2, 2012, May 7, 2012, July 17, 2012, February 19, 2013, September 16, 2013, February 17, 2014, September 15, 2014, and February 17, 2015, the City Council, serving as governing board of the Successor Agency, adopted ROPS for previous periods.

Fiscal Impacts

As noted above, the Enforceable Obligations listed on the ROPS are paid using funds disbursed by the County Auditor-Controller through property tax revenue deposited into the Redevelopment Property Tax Trust Fund (RPTTF). The General Fund (or any other City fund) does not bear any responsibility for the payment of approved enforceable obligations of the former Redevelopment Agency.

ATTACHMENT

Attachment to Resolution

- ROPS

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