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Sponsors: Cynthia Battenberg
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Staff Report for City and Successor Agency Resolutions Approving a Loan by the City of San Leandro to the Successor Agency to the Redevelopment Agency of the City of San Leandro to Advance Funds for the Payment of Enforceable Obligations from the General Fund Unrestricted Economic Uncertainty Reserve

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council and Successor Agency Board of Directors adopt resolutions approving a loan from the City to the Successor Agency to advance funds for the payment of enforceable obligations. This action will remedy a negative fund balance of the Successor Agency and provide a mechanism for putting the shortfall on the Successor Agency’s Recognized Obligation Payment Schedule, thereby creating a process for recovering the funds.

BACKGROUND

The City of San Leandro, serving in its capacity as Successor Agency to the Redevelopment Agency of the City of San Leandro (“Successor Agency”) is responsible for preparing a Recognized Obligation Payment Schedule (“ROPS”) every six months. The ROPS lists all payments due on Enforceable Obligations of the former Redevelopment Agency for the upcoming six month period.

Enforceable Obligations are defined as:

- Bonds including debt service reserve set asides;
- 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.

After each ROPS is adopted, it is submitted to the State Department of Finance (“DOF”) for review and approval. Once the ROPS receives approval from the DOF, the funds needed to pay the Enforceable Obligations are remitted to the Successor Agency by the Alameda County Auditor-Controller. The funding comes from the Redevelopment Property Tax Trust Fund (“RPTTF”), which is the property tax increment that used to be allocated as revenue to the Redevelopment Agency.

In addition to reviewing the validity of the obligations on the ROPS, the DOF also assesses any difference between estimated and actual payments from previous ROPS periods. If any actual payments were less than the amount requested on the ROPS, the DOF reduces the amount of the next RPTTF remittance by an equivalent amount. The DOF also assesses all of the Successor Agency’s fund balances to determine if funds are available to pay enforceable obligations. If so, the RPTTF remittances are reduced accordingly. This system is designed to ensure that Successor Agencies have enough funding on hand to meet their obligations, but no more.

Analysis

In its review of the Successor Agency’s most recent ROPS, the DOF determined that the Successor Agency had a substantial amount of funding on hand to pay enforceable obligations. Therefore, the DOF made a significant reduction to the amount of RPTTF remitted to the Successor Agency. The Successor Agency believes that the DOF determination was erroneous, primarily due to the following issues:

1. Timing of the King Settlement Payment

The Successor Agency makes payments every six months pursuant to a legal settlement related to the termination of a ground lease (the “King settlement”). The ROPS period from July through December 2014 included a scheduled payment of \$750,000 due on July 1, 2014. To ensure timely payment, the Successor Agency wired the funds, in two installments on June 26 and June 27, 2014. In its review, the DOF looked only at expenditures made between July 1 and December 31. Because no payment was made during that precise period, the DOF determined that the Successor Agency had been overpaid during the prior period and should have funding on hand to make future enforceable obligation payments.

2. Use of Bond Proceeds for 2014 Refunding

In fall 2014, the Successor Agency and City issued refunding bonds to take advantage of reduced interest rates. That action included a refunding of Redevelopment Agency bonds issued in 2002 and 2004. The Successor Agency believes that the DOF did not take into account the use of remaining bond proceeds from the 2002 and 2004 bonds as part of the 2014 bond refunding. A total of \$2,784,111 in bond proceeds was used as part of the refunding to reduce the amount of principal owed. As with the King Payment, this resulted in the DOF determining that the Successor Agency had more funds on hand than it actually did.

As a result of these two issues, the Successor Agency’s RPTTF remittance for the January-June 2015 ROPS was considerably less than what was needed to meet its obligations for that period.

City Loan to Remedy the Shortfall

The Successor Agency's Enforceable Obligations are not discretionary payments that can be adjusted as needed to meet available funding. The bulk of the payments owed are debt service on bonds and the payments due under the King settlement. Therefore, the Successor Agency will make all payments owed through December 31, 2015 and attempt to recover the shortfall on the next ROPS. The most effective means of doing this is by establishing a loan from the City to cover the negative fund balance and list that loan on the ROPS as a new enforceable obligation.

Based on a review of the current fund balances, upcoming payment obligations, and a limited amount of interest and other revenue earned by the Successor Agency, staff believes that the Successor Agency's shortfall is \$779,051.

If the loan is approved by the City Council and Successor Agency Board of Directors, the funding will be transferred from the City's General Fund reserves to the Successor Agency and the loan will be listed on the ROPS for January-June 2016. Funding for that ROPS will be remitted to the Successor Agency in early January 2016 from the RPTTF. Assuming the loan is approved by the Department of Finance as an enforceable obligation, the loan will be repaid in full upon receipt of the next RPTTF distribution.

Staff expects that the loan will be approved by DOF, since Section 34173 (h) of the California Health and Safety Code specifically allows the City to loan money to the Successor Agency to cover enforceable obligations and the ROPS is supposed to include such advances. If the obligation is not approved by the DOF - an outcome that staff does not anticipate - the City and Successor Agency will find themselves in essentially the same position they are in currently. Eventually, if the shortfall is not remedied through the ROPS process, the City would need to correct the negative balance in the Successor Agency accounts. Staff anticipates working closely with the DOF to obtain their concurrence on this action prior to the transfer of any funds.

Fiscal Impacts

This loan will require a transfer of \$779,051 from General Fund reserves, which requires increasing the FY 2015-16 Budget by the same amount. The loan is contingent on the DOF's approval of the next ROPS. Upon the DOF approval, the funds would be transferred from the City to the Successor Agency to meet cash flow requirements. Although staff cannot guarantee DOF approval, it is anticipated that the loan will be approved as an enforceable obligation and repaid in January 2016.

Budget Authority

This action will require an appropriation of \$779,051 from General Fund Unrestricted Economic Uncertainty reserves.

ATTACHMENT

Attachment to Resolutions

- Loan Agreement between the City of San Leandro and the Successor Agency

PREPARED BY: Jeff Kay, Business Development Manager, Community Development Department