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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, 2015, 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, 2015, 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, 2015 through June 30, 2015 (ROPS 14-15B).

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 January through June 2015 (known as ROPS 14-15B) does not include any new obligations that were not included on the previous ROPS. The following obligations are 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 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. 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 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. The court's decision is expected by November 25, 2014 although appeals, should any be filed, could delay resolution of this issue. The obligations remain on the ROPS but DOF has prohibited the Successor Agency from receiving any funding for 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 be dedicated to affordable housing, among other restrictions. That clause would not provide a mechanism to restore funding for the capital projects funded through the Cooperative Agreements.

Regency Centers/Washington Plaza Security Agreement

The Washington Plaza Security Agreement, executed June 21, 2004, allowed the Redevelopment Agency to leverage funds from both the City of San Leandro and Regency Centers to provide enhanced police services to the core of Downtown San Leandro. The agreement funds one bicycle officer, who provides services throughout Downtown San Leandro and is highly valued by the community. In the DOF's November 1, 2013 letter of determination for ROPS 13-14B, it noted that

the Health and Safety Code "requires the Oversight Board to direct the Successor Agency to determine whether any contracts ... between the dissolved RDA and any private parties should be terminated." Additionally, the DOF urged the Oversight Board to "apply adequate 'oversight' in evaluating if this contract should be terminated."

At the subsequent Oversight Board meeting on February 26, 2014, the Successor Agency adhered to this request and sought Oversight Board direction on this obligation. The Oversight Board provided clear direction that it does not wish to terminate the agreement, citing the fact that it leverages funds from multiple sources to provide a needed service. The Board did, however, direct staff to return at the next Oversight Board meeting with a proposed plan for winding down or phasing out the agreement. Unfortunately, the DOF has continued to deny funding for this obligation. It may ultimately be necessary for the City's General Fund to absorb the Redevelopment Agency's share, which is roughly \$45,000 per year.

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 January-June 2015 ROPS period, the \$250,000 floor will apply. The administrative costs included on this ROPS total \$125,000 in staff and legal costs, representing half of one year's allowance.

The Oversight Board is scheduled to approve this ROPS on September 24, 2014 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, and February 17, 2014 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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