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<b>Title:</b>	Staff Report for Resolution of the Governing Board of the Successor Agency to the Redevelopment Agency of the City of San Leandro Approving a Recognized Obligation Payment Schedule for January through June 2013 for Enforceable Obligations of the Former Redevelopment Agency Pursuant to Health and Safety Code Section 34177				

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Staff Report for Resolution of the Governing Board of the Successor Agency to the Redevelopment Agency of the City of San Leandro Approving a Recognized Obligation Payment Schedule for January through June 2013 for Enforceable Obligations of the Former Redevelopment Agency Pursuant to Health and Safety Code Section 34177

## 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, 2013 through June 30, 2013.

## 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). Assembly Bill 1484, passed by the State Legislature on June 27, 2012, modified ABx1 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. Assembly Bill 1484 changed the deadline for submitting the next ROPS (for the period January through July, 2013) to the Department of Finance (DOF) to September 1, 2012. Approval of the ROPS by the Oversight Board is also required prior to submission to the DOF. 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 January through June 2013 are the same as those in the previous ROPS.

### **City-Agency Agreements**

After the approval of both previous versions of the ROPS, the DOF exercised its right to conduct a review of the list of Enforceable Obligations. Upon completion of that review, the DOF informed the Successor Agency that DOF 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 Project Area and four cooperative agreements to fund capital improvement projects.

In response to the DOF's determination, the Successor Agency and Oversight Board exercised a power granted in Health and Safety Code 34178 to re-authorize those agreements. The DOF, however, has continued to deny their validity without providing a clear explanation for how it is interpreting the relevant parts of Section 34178. 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 if DOF has previously rejected the items to be funded by such agreements. It is not clear at this time if that provision will be considered to have retroactive effect, so staff recommends leaving all relevant items on the ROPS at this time.

If the DOF continues to deny the validity of these City-Agency agreements, the Successor Agency may opt to take advantage of a new clause in AB1484 which would allow repayment of loans made by cities to redevelopment agencies upon compliance with certain requirements. That clause, however, does not allow any repayment until FY2013-14 and requires 20 percent of all payments to be dedicated to affordable housing, among other restrictions. This clause would not provide a mechanism for restoring funding for the capital projects funded through the Cooperative Agreements.

At this time, staff is recommending that the ROPS reflect the terms of all agreements as they existed when they were re-authorized by the Successor Agency and Oversight Board pursuant to the law as in effect at the time of the authorization. The DOF's review of the newest ROPS, along with the results of a new "meet and confer" process between the Successor Agency and the DOF, will determine whether such obligations will qualify as enforceable obligations that can be paid from the Redevelopment Property Tax Trust Fund.

### **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 for Fiscal Year 2012-13 is the greater of 3% of funds received from the Redevelopment Property Tax Trust Fund or \$250,000 annually. For San Leandro, the \$250,000 minimum allowance is expected to apply. For this

ROPS, covering six months of obligations, the administrative allowance equals \$125,000, or half of the annual amount.

### **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 January 23, 2012, the Board of the Redevelopment Agency approved the amended EOPS.
- On April 2, 2012, the City Council, serving as governing board of the Successor Agency, adopted the ROPS for the period of February 1, 2012 through June 30, 2012.
- On May 7, 2012, the City Council, serving as the governing board of the Successor Agency, adopted the ROPS for the period of July 1, 2012 through December 31, 2012.

### **Fiscal Impacts**

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

### **ATTACHMENTS**

None

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