



Legislation Text

File #: 13-401, **Version:** 1

Staff Report for 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, 2014, 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, 2014 through June 30, 2014 (ROPS 13-14B).

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 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 current ROPS, version 13-14B, is based on a new spreadsheet template issued by the DOF in August 2013 and therefore presents some information differently than in the past. The obligations listed on the ROPS for January through June 2014 are generally the same as those in the previous ROPS, although the following obligations are either new or the subject of ongoing disagreement 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 and four Cooperative Agreements to fund \$9.1 million in capital improvement projects.

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 is pending. 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, and will be paid as follows:

- Existing LMIHF balance: \$3.9m
- Redevelopment Property Tax Trust Fund (RPTTF) payment from the July-December 2013 ROPS (ROPS 13-14A): \$1.1m
- Redevelopment Property Tax Trust Fund (RPTTF) payment from the January-June 2014 ROPS (ROPS 13-14B): \$2.0m

Litigation Expenditures

Health and Safety Code Section 34171(b) states that litigation expenses do not count against the

administrative budget allowance. The Successor Agency has three active or potential claims against the DOF. Two of these actions were resolved in the Successor Agency's favor and are not expected to incur further charges after the conclusion of the next ROPS period. A legal challenge related to loans made by the City to the Redevelopment Agency is still pending, as noted above.

Community Benefit District

In July 2013, a Community Benefit District was formed to generate funding to support Downtown San Leandro. The Successor Agency presently owns ten parcels that are located inside the Benefit District. Although the Successor Agency did not vote during the balloting process, it is subject to this assessment now that it is in effect. The Successor Agency's assessment for 2013-14 will be \$36,508.10 and this amount has been added to the ROPS as a new 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. Because sufficient RPTTF was not available, the Successor Agency did not receive any Administrative Allowance under ROPS 13-14A and the Agency is therefore requesting its full annual allotment on the current ROPS. The amount requested is calculated as follows.

Approved RPTTF from ROPS 13-14A:	\$5,239,717
Requested RPTTF from ROPS 13-14B:	<u>\$5,007,865</u>
Total RPTTF for the 2013-14 fiscal year:	\$10,247,582

Allowed Administrative Allowance (3%)	\$307,427
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The Oversight Board is scheduled to approve this ROPS on September 18, 2013 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, and February 19, 2013 the City Council, serving as governing board of the Successor Agency, adopted ROPS for previous periods.

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 (RPTTF). 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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