



**OVERSIGHT
BOARD
AGENDA
REPORT**

SUBJECT: Approval and Adoption of a Recognized Obligation Payment Schedule for January through June 2013

DEPARTMENT: Administrative Services

MEETING DATE: August 30, 2012

SUBMITTED BY: Successor Agency

RECOMMENDATION: It is recommended that the Oversight Board:

1. Adopt the attached resolution the Recognized Obligation Payment Schedule for the period of January 1 through June 30, 2013 and the incorporated administrative allowance and budget.

BACKGROUND:

As of February 1, 2012, all redevelopment agencies throughout the State were required to dissolve as a result of the passage of ABX1-26 and the subsequent Matosantos case ruling by the California Supreme Court. On June 27, 2012, AB 1484 became law. AB 1484 amended many components of ABX1-26 and revised several operating procedures, including, but not limited to:

1. Specifying that successor agencies are separate legal entities,
2. Defining housing assets and the role of successor agencies for housing functions,
3. Extending review periods of Oversight Board actions by the State Department of Finance ("DOF"),
4. Specifying that all actions of an Oversight Board must be adopted by resolution which must then be transmitted to DOF,
5. Revising advance and post noticing requirements and review periods for disposition of real property and suspending disposition of real property other than governmental purpose assets until preparation and approval of a Property Management Plan,
6. Adding audit requirements, including a "due diligence" audit with specific time periods for performance,
7. Authorizing Successor Agencies to hold reserves when required by bond indentures or when the next property tax allocation from the Redevelopment Property Tax Trust Fund (RPTTF) will be insufficient to pay all bond debt obligations due in the following six-month period,
8. Providing DOF the ability to eliminate, reduce or modify items approved by an Oversight Board on Recognized Obligation Payment Schedules (ROPS),
9. Establishing a "meet and confer" provision for contested DOF decisions ,
10. Establishing specific time periods for preparation and submittal of ROPS, with substantial financial penalties for late submittals or failure to submit,

11. Providing the opportunity for DOF to “garnish” sales and use tax of sponsoring entities (the city that sponsored the dissolved redevelopment agency) or a county to withhold property taxes from sponsoring entities under certain conditions, and
12. Allowing certain old City-Redevelopment Agency loans, with Oversight Board approval, to be recognized enforceable obligations with strict legislatively mandated repayment terms provided the Successor Agency has been issued a Finding of Completion from DOF, and
13. Authorizing spending of pre-2011 bond proceeds for the purposes for which the bonds were issued after a Finding of Completion has been issued by DOF.

A complete summary of the major provisions of AB 1484 prepared by the League of California Cities is attached as Attachment One to this report. A more extensive summary, prepared Goldfarb Lipman Attorneys is available upon request. It should also be noted that several lawsuits have been filed relative to specific provisions contained in AB 1484. The League of California Cities has announced its intent to either file another lawsuit or join in an existing suit. As of the date of this report, the League is currently analyzing its preferred course of action.

Current Issue:

As you will recall, ROPS are required to be prepared by successor agencies and approved by oversight boards for prospective six-month periods and are the budgetary documents upon which auditor-controllers distribute what was formally tax increment to successor agencies to allow them to pay approved enforceable obligations and administrative costs during the following six month period. In short, auditor controllers deposit what would previously have been deemed tax increment if redevelopment agencies had not dissolved into a new account, the RPTTF. Any RPTTF dollars not required to pay enforceable obligations and approved administrative costs during that six-month period are to be retained and distributed by auditor-controllers to the affected taxing entities, such as schools, special districts and the like.

AB 1484 requires that the six-month prospective ROPS for the period of January 1 through June 30, 2013 must be adopted by the Oversight Board and transmitted to the DOF prior to September 1, 2012. Because September 1st falls on a weekend and Monday is a holiday, DOF has extended this deadline to September 4th.

AB 1484 also extended the deadline for county auditor-controllers to complete their agreed upon procedures audit for the first ROPS period (January 1 through June 30, 2012) from July 1, 2012 to October 1, 2012. AB 1484 also specified that auditor controllers must provide estimates of available funding to successor agencies from the Redevelopment Property Tax Trust Fund by October 1, 2012. DOF has subsequently requested that auditor-controllers expedite this process, but the Riverside Auditor-Controller has indicated it will be impossible to provide an accurate revenue estimate until September 4th.

As such, we find ourselves in the same position we were when we prepared the first and second ROPS, i.e., having to prepare and submit a six-month ROPS without benefit

of a certified initial ROPS and without benefit of an estimate from the Riverside Auditor-Controller of the maximum RPTTF distribution to which we might be entitled. Additionally, we have received no further communication from DOF relative to those enforceable obligations included on the first and second ROPS (those covering the 2012 calendar year) for which DOF had requested additional information.

On a positive note, however, AB1484 allows successor agencies to reserve funds from one RPTTF period to another if necessary to meet annualized bond debt payments. In our case, this will be necessary in that required bond debt service in the July through December ROPS cycle is significantly higher than that required during the January through June ROPS cycle. Specifically, current bond payments and fiscal agent fees required during the January – June 2013 ROPS cycle are just under \$5 million while these same bond payments and fiscal agent fees required during the July through December 2013 ROPS cycle will exceed \$10.1 million. As such, the proposed January through June 2013 ROPS cycle includes a Reserve for Bond Debt Service enforceable obligation to be funded from the RPTTF in the amount of \$2,746,699.

Other noteworthy changes in this January through June 2013 ROPS from those prepared and approved for previous ROPS cycles include:

1. An allocation to the City Urban Revitalization Corporation (CURC) to utilize bond proceeds to acquire and clear additional properties that are required for the hotel project. The hotel project was a specifically identified project in both the 2007 Agency bond prospectus and in the existing Owner Participation Agreement (OPA) and Disposition and Development Agreements (DDA) with CURC. The OPA and the DDA, as well as the 2007 bond debt service are all enforceable obligations in the first and second ROPS periods. It is anticipated that a finding of completion, which is only issued after due diligence audits have been completed and any funds which have been determined to be unencumbered are transmitted to DOF may be issued in the April-May 2013 time frame.
2. A proposed allocation, which is being carried forward from the previous approved ROPS, to allow completion of demolition, including asbestos testing and removal and relocation of the remaining Successor Agency owned properties on the Eastside (the approximate 23 acre site bounded by the Channel to the north, Date Palm to the east, East Palm Canyon to the south and Monty Hall to the west. This work has taken longer to complete than anticipated and while we have a verbal approval from DOF staff to carry forward this work from one ROPS cycle to the next, the law specifically requires that any expenditure during a ROPS cycle be included in that ROPS cycle. Staff had anticipated having to amend the existing July-December 2012 ROPS to reflect the delay in demolition but DOF issued an announcement that DOF would not accept any further amendments to the first and second ROPS (those covering the 2012 calendar year) and that any desired changes would have to be reflected in January through June 2013 ROPS.

It must also be noted that AB 1484 significantly changed the ROPS approval process. Once prepared, the ROPS must be transmitted electronically to the County Administrative Officer, the County Auditor Controller and to DOF concurrently with

transmittal to the Oversight Board. Once the ROPS is approved by the Oversight Board, it must be electronically transmitted to the DOF and to the County Auditor Controller and posted on the website. DOF now has five business days to question any expenditure included on the ROPS and, if questioned, then has 45 days from the date of submittal to render a decision. Finally, and most importantly, AB 1484 gives DOF the ability to unilaterally to eliminate or modify any item contained on a ROPS or to change proposed funding sources. If an Oversight Board desires to contest DOF's decision, it must request to "meet and confer" within five business days of receiving notification of DOF's decision. The "meet and confer" is to occur within a 30 day period.

Fiscal Impact: If adopted, the January 1 through June 30, 2013 ROPS will authorize payments of \$13,727,224 of enforceable obligations during this time period, of which \$8,053,637 will be funded from the RPTTF with the balance funded from bond proceeds or other (which includes rental income or payments on existing enforceable obligations) and approve an administrative budget totaling \$241,609 which is equivalent to 3% of the distribution from the RPTTF allowed by law. The administrative budget will also be funded from the RPTTF.

Future Issues: AB 1484 requires Successor Agencies to conduct a due diligence audit to be performed by licensed accountants. The first such audit to be performed is that of housing assets which must be completed and submitted to the Oversight Board by October 1, 2012 and subsequently approved by Oversight Board and transmitted to DOF no later than October 15, 2012. The law requires that this document be presented to the Oversight Board with the ability for public comment at least five business days prior to the Oversight Board taking action on the item. This undoubtedly will require a modification in Oversight Board meeting dates. The City's Auditor, Lance Sol and Lundgrad ("LSL"), has indicated a willingness to prepare this audit and has been approved by the Auditor-Controller to perform the audit, also a new requirement under AB 1484. However, LSL cannot quote a fee for performing this service as the legislatively required work product is not clearly specified in AB 1484. We are hearing that successor agencies throughout the state are experiencing this same reaction from their accounts.

The second portion of the required due diligence audit pertains to former redevelopment agencies' non-housing funds. This work is required to be completed prior to December 15, 2012. It will be subject to similar oversight board approval and public comment requirements. In addition, successor agencies are required to undergo annual on-going audits. In order to meet these time frames, it may be necessary to schedule special Oversight Board meetings.

ATTACHMENTS: Attachment One: Major Provisions & Important Dates of AB 1484
Attachment Two: Resolution