



**OVERSIGHT
BOARD
AGENDA
REPORT**

SUBJECT: Approval and Adoption of a Recognized Obligation Payment Schedule for January through June 2015 (“ROPS 14-15B”)

DEPARTMENT: Administrative Services

MEETING DATE: September 25, 2014

SUBMITTED BY: Successor Agency

RECOMMENDATION: It is recommended that the Oversight Board:

1. Adopt the attached resolution approving the Recognized Obligation Payment Schedule for the period of January 1 through June 30, 2015 (“ROPS” 14-15B”) 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;
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 has been previously provided to the Board. It should also be noted that several lawsuits have been filed relative to specific provisions contained in AB 1484. The League of California filed a lawsuit on September 24, 2012, challenging the constitutionality of the sales tax and property tax clawback and other provisions of AB 1484. The California Supreme Court issued a written ruling denying relief on July 10, 2013. The Court granted a motion for reconsideration and denied a motion for a new trial in an order dated September 24, 2013. On December 9, 2013, the Court issued its final ruling that: (1) determined the sales and use tax offset provisions violated Article XIII, Section 24(b) of the California Constitution; (2) affirmed its original ruling denying relief as to the property tax reduction provision of Section 34179.6(h)(1)(C); and (3) affirmed its original ruling denying relief related to unconstitutional delegation and alleged underground regulations.

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, 2015 must be adopted by the Oversight Board and transmitted to the DOF prior to October 3, 2014. The Riverside Auditor-Controller has not yet provided estimates of available funding to successor agencies prior to the preparation of this ROPS cycle. As such, we find ourselves in the same position we were when we prepared the ROPS I through ROPS 14-15A, 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.

As a reminder, 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 from the January 2015 disbursement as the required bond debt service in the July through December 2015 ROPS cycle will be significantly higher than that required during the January through June 2015 ROPS cycle. Specifically, current bond payments and fiscal agent fees required during the January – June 2015 ROPS cycle are approximately \$4.7 million while these same bond payments and fiscal agent fees required during the July through December 2015 ROPS cycle will be approximately \$10.6 million. As such, the January through June 2015 ROPS cycle includes a Reserve for Bond Debt Service enforceable obligation to be funded from the RPTTF in the amount of \$2,816,358. This will be required annually for all January disbursements.

Other noteworthy changes in this January through June 2015 ROPS cycle from those prepared and approved for previous ROPS cycles reflects the following:

- In anticipation of DOF's approval of our Long-Range Property Management Plan, services related to the disposition of property under such plan. As such, we are requesting DOF to approve funding in the amount of \$225,000 on ROPS 14-15B (Item 75).
- Repayment in full of the loan from the City of Cathedral City for the ROPS 13-14A RPTTF shortfall. Originally the loan was to be repaid in two installments – 50% on ROPS 13-14B and 50% on ROPS 14-15A. However, there was insufficient RPTTF to make the scheduled repayments. As such, we are requesting DOF to approve funding in the amount of \$273,500 on ROPS 14-15B (Item 78).

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. Effective with ROPS 13-14B, once the ROPS is approved by the Oversight Board, it must be uploaded along with the OB Resolution to the DOF using the Redevelopment Agency Dissolution Web Application (RAD). It must also be electronically transmitted to the County Auditor-Controller and the State Controller's Office, 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 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, 2015 ROPS will authorize payments of \$9,047,053 of enforceable obligations (excluding the administrative cost

allowance) during this time period, of which \$8,120,382 will be funded from the RPTTF, with the balance funded from bond proceeds or other (which includes rental income, interest, etc.). It will also approve an administrative budget totaling \$243,611, which is equivalent to 3% of the distribution from the RPTTF allowed by law. The administrative budget will also be funded from the RPTTF.

ATTACHMENTS: Attachment One: Resolution
Attachment Two: ROPS 14-15B