



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL/SUCCESSOR  
AGENCY BOARD

**FROM:** Richard A. Keit

**SUBJECT: SEE BELOW**

**DATE:** September 24, 2012

Approved

Date

10/2/12

**SUBJECT: APPROVAL OF THE RECOGNIZED OBLIGATION PAYMENT  
SCHEDULES 2 AND 3**

## RECOMMENDATION

It is recommended that the City Council, acting in its capacity as Successor Agency to the Redevelopment Agency, adopt a funding sources and appropriation resolution for 2012-2013 authorizing payment of expenditures for items on the Recognized Obligation Payment Schedule 2 and 3, which detail the obligations of the Successor Agency for the period of July 1, 2012 through June 30, 2013.

## BACKGROUND

Pursuant to Health and Safety Code 34177, each Successor Agency must submit a Recognized Obligation Payment Schedule (ROPS) to the State Department of Finance (DOF) every six months. The ROPS reflects payments due during that six month period. The DOF has significantly revised the ROPS form for ROPS 3 (January 2013 through June 2013) to simplify the information and to allow the Successor Agency to provide comments.

On January 24, 2012, in anticipation of the dissolution of the Redevelopment Agency, the City Council established the Redevelopment Obligation Retirement Fund and adopted the corresponding Appropriation Ordinance and Funding Sources Resolution. On June 12, 2012, these appropriations were repealed and the City Council directed staff to use the ROPS process as a means of authorizing Successor Agency revenues and expenditures in the future. Therefore, instead of an annual fiscal year budget process for the Successor Agency, revenues and expenditures will be authorized on a six month basis to correspond with the ROPS process.

Successor Agency staff completed the ROPS 2 (July 2012-December 2012), which was approved by the Oversight Board on May 24, 2012, and submitted the final ROPS 3 (January 2013-June 2013) in time for the September 1<sup>st</sup> deadline. Each schedule outlines anticipated payments due during the given timeframe along with the funding source which is intended to provide funding for expenditures. However, due to insufficient redevelopment tax increment revenues, the Successor Agency will not have sufficient revenues to pay for all obligations. As such, where appropriate, the City has recommended providing funding for City contractually

September 24, 2012

**Subject: Approval of the Recognized Obligation Payment Schedules 2 and 3**

Page 2

obligated Successor Agency obligations as well as costs associated with the Administrative Budget as approved by the City Council to assist with the winding down of the former Redevelopment Agency. Staff is working to prepare a Reimbursement Agreement with the City to establish an enforceable obligation to repay the City for expenditures incurred by the City on behalf of the Successor Agency beginning July 1, 2012.

On September 14, 2012, the Santa Clara County Auditor-Controller (CAC) submitted a Notice of Objection to ROPS 3. On September 21, 2012, the Successor Agency transmitted the Notice of Objection with an Information Memo to the Oversight Board responding to the Notice. The response stated that with one exception the Successor Agency staff agreed with the objections in the Notice and that those agreed upon items would be revised. The one item in dispute is the dollar amount of the reserve for the Housing Set-Aside Bonds as defined by the bond indentures. The State Department of Finance is currently reviewing ROPS 3.

### ANALYSIS

Council approval of this action will provide the Successor Agency the authority to expend funds for enforceable obligations during the 2012-2013 fiscal year, to the extent available funding exists.

#### *Summary of Revenues and Expenditures*

The Redevelopment Property Taxes (formerly tax increment) estimated to be received for ROPS 2 and 3 enforceable obligations total \$160.1 million, of which \$77.5 million was received in June 2012. The Successor Agency receives tax increment two times in a given year. The June payment is used for the July through December ROPS period (ROPS 2) and the January payment is dedicated for the January through June period (ROPS 3). The revised summary schedule for ROPS 3 requires the County Auditor-Controller (CAC) to provide the Successor Agency with the six-month anticipated Redevelopment Property Tax Trust Fund (RPTTF) deposit and amount to be available for distribution on January 2, 2013. The CAC forecast of \$82.6 million represents the maximum amount available to fund the obligations as listed in ROPS 3. The Successor Agency is contesting the revenue amounts received and or forecasted to be received to fund ROPS 2 and 3 because it does not include all revenues that comprise former tax increment. The CAC has held and plans to continue to withhold certain tax levies in the amount of approximately \$3.75 million from each of the semi-annual distributions for an annual impact of approximately \$7.5 million. Per the Successor Agency's bond requirements, 80% of all tax revenues must be sent to the Trustee until all senior debt service obligations for the bond year (August 1-July 31) are met.

In addition to tax increment receipts, various other sources and revenues are anticipated to be received in 2012-2013 including state grant proceeds (\$3.4 million), revenues from the sale of property (\$3.5 million), rental income (\$380,000), loan repayments (\$260,000), and participation payments from real estate development agreements (\$80,000). When combined with the beginning fund balance of \$2.5 million, available funding is estimated to total \$170.2 million in Fiscal Year 2012-2013, excluding any transfer of City funding for support of various obligations.

September 24, 2012

**Subject: Approval of the Recognized Obligation Payment Schedules 2 and 3**

Page 3

Outstanding obligations, as reported in ROPS 3, total \$3.6 billion, reflecting a combination of all 80% (non-housing) and 20% housing set-aside obligations incurred to date. The total anticipated payments in 2012-2013 are \$198.7 million. The \$198.7 million reflect payments which include the following:

- \$132.0 million senior debt service on the Successor Agency's non-housing tax allocation bonds;
- \$27.0 million for housing 20% set-aside tax allocation bonds and subordinate housing debt service payments;
- \$15.3 million debt service payments on the Convention Center bonds;
- \$3.4 million debt service for the Fourth Street Parking Garage bonds;
- \$6.0 million for debt service and letter of credit fees in connection with the senior subordinated variable rate bonds;
- \$4.0 million loan payment to the State of California (ERAF Loan);
- \$2.0 million for HUD 108 loan payments; and,
- \$9.0 million in non-debt service related obligations which include project related costs of \$7.0 million (of which \$3.4 million is funded with proceeds from a California State Infill and Infrastructure Grant) and \$2.0 million in administrative costs.

As discussed above, due to insufficient redevelopment tax increment revenues the Successor Agency will not have sufficient revenues to pay for all obligations. Therefore, the City staff has recommended providing funding for certain Successor Agency obligations including Administrative costs. Successor Agency obligations which the City would be contractually obligated to pay include: 4<sup>th</sup> Street Garage Debt Service, Convention Center Debt Service, HUD 108 Loan payments, and ERAF Loan Payments. Currently, \$11.0 million in the General Fund and \$16.3 million in all funds is included in the City's 2012-2013 Adopted Operating Budget to ensure complete payment of those City contractual obligations as well as Successor Agency Administrative costs.

#### *Inclusion of Long-term Obligations and City Loan Obligations*

Included in ROPS 3 are those obligations which are not due in the current reporting period but are approved enforceable obligations that need to be included on the ROPS to accurately reflect the total outstanding debt or obligation amount of the Successor Agency. Included in this category are the County Pass-through Payments reporting the amounts accrued for FY 2011-12 and estimated for FY 2012-13 (\$31 million) and payments to the County under the 2011 Settlement Agreement (\$23.8 million). Also included are the following obligations to the City, the terms of which will need to be approved by the Oversight Board: SERAF loan agreement (\$109 million), Parking Fund Loans I and II (\$13.6 million), Deferred Parkland Fees (\$8.1 million) and reimbursement to the City for the Hillview Playground (\$200,000).

A reference to the Reimbursement Agreement between the City of San José and the Successor Agency, the terms of which were approved by the Oversight Board on June 28, 2012, is currently included in the notes section of ROPS 3. Upon final resolution on the terms of the agreement, this document will be included on a future ROPS. This resolves concerns expressed by the Oversight Board with tracking these costs on an ongoing basis.

September 24, 2012

**Subject: Approval of the Recognized Obligation Payment Schedules 2 and 3**

Page 4

Please click on the following link to view the ROPS 2:

[http://www.sanjoseca.gov/Clerk/Agenda/successor/20120524/sara20120524\\_0602bres.pdf](http://www.sanjoseca.gov/Clerk/Agenda/successor/20120524/sara20120524_0602bres.pdf)

Please click on the following links to view the ROPS 3:

[http://www.sanjoseca.gov/clerk/Agenda/successor/20120823/sara20120823\\_0602.pdf](http://www.sanjoseca.gov/clerk/Agenda/successor/20120823/sara20120823_0602.pdf)

<http://www.sjredevelopment.org/Finance/ROPS/ROPSIIIFinal083112.pdf>

### **EVALUATION AND FOLLOW-UP**

Successor Agency staff will continue to return to the City Council and the Successor Agency Board regarding Oversight Board actions and budgetary authority through the bi-annual approval of the Recognized Obligation Payment Schedule and Administrative Budget.

### **PUBLIC OUTREACH**

- ✓ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-Mail Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Actions recommended in this report meet Criterion #1. This report will be posted on the website for the Council's October 16, 2012 meeting.

### **COORDINATION**

This memo has been coordinated with the City Attorney's Office, the Finance Department and the City Manager's Budget Office.

### **COST IMPLICATIONS**

The Recognized Obligation Payment Schedules reflect obligations due during the specified time period. Approval of this Resolution provides budget authority for expenditures as available funding permits in accordance with the priority of obligations. As noted above, Redevelopment Property Tax revenues are anticipated to fall short of enforceable obligations. Therefore as

HONORABLE MAYOR AND CITY COUNCIL/SUCCESSOR AGENCY BOARD

September 24, 2012

**Subject: Approval of the Recognized Obligation Payment Schedules 2 and 3**

Page 5

appropriate, the City will provide funding for those obligations the City is contractually obligated to pay as well as Administrative costs as outlined in the Administrative Budgets.

**CEQA**

Not a Project, File No. PP10-067(b), appropriation ordinance.



RICHARD A. KEIT  
Managing Director