



DATE: December 18, 2018

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Approval of the Annual Recognized Obligation Payment Schedule for the Period July 1, 2019 to June 30, 2020 and the Successor Agency Administrative Budget for the Period July 1, 2019 to June 30, 2020

RECOMMENDATION

That the City Council, in its capacity as governing board to the Hayward Successor Agency, adopts the attached resolution (Attachment II) that approves the Recognized Obligation Payment Schedule (ROPS 18-19) for the period July 1, 2019 through June 30, 2020 and the Successor Agency Administrative Budget for the period July 1, 2019 through June 30, 2020 and authorizes staff to take other administrative actions and execute contracts and such other documents as are appropriate to effectuate the intent of the resolution and all actions necessary to effectuate associated requirements of Assembly Bill x1 26 and AB 1484 (collectively, the "Dissolution Statutes").

SUMMARY

Under the Redevelopment Dissolution Statutes, all California redevelopment agencies were dissolved effective February 1, 2012, and various actions are required by successor agencies to unwind the affairs of all former redevelopment agencies.

The Dissolution Statutes require that the Successor Agency prepare, and the Alameda County Oversight Board approve, a recognized obligation payment schedule (individually a "ROPS" and collectively, "ROPS's") setting forth for each twelve-month period all Enforceable Obligations (as defined in the Dissolution Act) of the Dissolved RDA. This item is for the approval of the ROPS 2019-2020 for the Hayward Successor Agency.

BACKGROUND

Under the Dissolution Statutes, all California redevelopment agencies were dissolved effective February 1, 2012, and various actions are required by successor agencies to unwind the affairs of all former redevelopment agencies.

The Dissolution Statutes require that the Successor Agency prepare, and the Alameda County Oversight Board approve, a recognized obligation payment schedule (individually a

"ROPS" and collectively, "ROPS's") setting forth for each twelve-month period all Enforceable Obligations (as defined in the Dissolution Act) of the Dissolved RDA.

DISCUSSION

The intent of this report is to secure approval of the Recognized Obligation Payment Schedule for the period July 1, 2019 through June 30, 2020 (ROPS 2019-2020) and the Fiscal Year 2020 Administrative Budget (Attachments III and IV). Each year the Successor Agency is required to prepare and submit an Annual ROPS that outlines the required payments the Successor Agency must make to meet required obligations and to wind-down the affairs of the former Redevelopment Agency. Once the Alameda County Oversight Board approves these items, staff will submit them to the Department of Finance by the February 1, 2019 deadline.

The Dissolution Act generally provides that (with exceptions) agreements between the Dissolved RDA and the City are not Enforceable Obligations, but Health and Safety Code 34178(a) authorizes the Successor Agency and the City, with Oversight Board approval, to reenter into such agreements. The Successor Agency and the City reentered into that certain Reentered Repayment Agreement with the City of Hayward (the "Reentered Agreement") approved by the Hayward Successor Agency Oversight Board on May 21, 2012. The Reentered Repayment Agreement was listed as an outstanding enforceable obligation on the Successor Agency's ROPS. The Department of Finance determined that the amount owed to the City pursuant to the terms of the Reentered Agreement was limited to \$7,789,843, which excluded \$2.22 million that was clawed back during the Due Diligence Review process.

The City and the Successor Agency filed a petition for Writ of Mandate in *City of Hayward v. Department of Finance*, Sacramento Superior Court Action No. 34-2018-80002804, challenging the Department of Finance's determination related to the total outstanding obligation due under the Reentered Agreement. Sacramento Superior Court Judge Richard Sueyoshi issued a ruling in the City and Successor Agency's favor. In the order, Judge Sueyoshi grants the Petition for Writ of Mandate, ordering that a peremptory writ issue remanding the proceedings to the Department of Finance, and ordering that the Department of Finance set aside its determination that the amount owed to the City pursuant to the terms of the Reentered Agreement is limited to \$7,789,843.

The Court's decision confirmed the City and Successor Agency's argument that the total outstanding obligation under the Reentered Agreement should include the \$2.22 million that was clawed back during the Due Diligence Review process.

Under Health & Safety Code Section 34171(d)(1)(F)(ii), a sponsoring community can advance funds to a successor agency to pay legal expenses related to writ proceedings challenging acts taken pursuant to Part 1.85 and 1.8 of the Health and Safety Code. The same subsection provides that if the successor agency obtains a final judicial determination granting the relief requested in the action, the funds advanced by the sponsoring community for legal expenses related to successful causes of action pled by the successor

agency shall be deemed an enforceable obligation for repayment under the terms set forth in Health and Safety Code Section 34171(d).

The proposed ROPS 19-20 includes the repayment of the \$2.22 million obligation and also includes legal fees paid by the City associated with the successful legal challenge.

ROPS 2019-2020 includes repayment requests, for among other enforceable obligations, the repayment of the \$2.22 million plus accrued interest due under the Reentered Agreement pursuant to Health and Safety Code Sections 34178(a) and the Order, and the legal fees paid by the City associated with the successful legal challenge as allowed under Health and Safety Code Section 34171(d)(1)(F)(ii).

The Successor Agency will commence repayment to the City of the additional \$2,220,000 due under the Reentered Agreement on July 1, 2019 per the Court order. In addition, the Successor Agency will make a one-time payment to the City of \$150,000 to reimburse the City for the legal fees associated with challenging the DOF's determinations related to the enforceability of the Reentered Agreement.

Implementation Actions: The accompanying resolution authorizes and directs staff to take all administrative steps on behalf of the Successor Agency to implement upcoming requirements under the Dissolution Act and AB 1484, including providing necessary notices, transmittals, and postings regarding the ROPS and Successor Agency administrative budget.

Environmental Review: The actions set forth in the recommended accompanying resolution, as summarized above, are exempt under Guideline 15378(b)(4) of the California Environmental Quality Act (CEQA) in that the actions do not constitute a "project," but instead are required to continue a governmental funding mechanism for enforceable obligations of the former Redevelopment Agency and to perform the statutorily mandated unwinding of the assets, liabilities, and functions of the former Redevelopment Agency pursuant to the Dissolution Act.

ECONOMIC AND FISCAL IMPACT

Approval of ROPS 2019-2020 will facilitate the ability of the Successor Agency to continue payment of the enforceable obligations of the former Redevelopment Agency and is among the measures required to be taken to avoid triggering an event of default under any enforceable obligations. Approval of the Successor Agency administrative budget will facilitate the Successor Agency's receipt of the funds to which it is entitled under the Dissolution Act and AB 1484 to implement its administrative responsibilities. The repayment of the \$2.22 million and \$150,000 obligation will result in a reduction in the net available RPTTF funds available for distribution to other taxing entities until such time as those obligations are fully repaid.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

NEXT STEPS

Following City Council approval of the ROPS 2019-2020 and the Fiscal Year 2020 Administrative Budget, the Alameda County Oversight Board will consider approval of the ROPS 2019-2020 and the Fiscal Year 19-20 Administrative Budget on January 23, 2019. Following approval of the ROPS 2019-2020 by the Alameda County Oversight Board, staff will submit this to the Department of Finance by the February deadline for approval. The Department of Finance then has an opportunity to review and object to any items on the ROPS and/or request additional documentation. If any items on the ROPS 2019-2020 are challenged, the Successor Agency will have an opportunity to request a meet and confer session if staff disagrees with any of the Department of Finance's determinations. All Department of Finance meet and confer determinations must be made fifteen days prior to June 1, 2019, which is when the Successor Agency will receive the first disbursement of tax increment funds approved pursuant to the ROPS 2019-2020.

Prepared and Recommended by: John Stefanski, Management Analyst II

Approved by:



Kelly McAdoe, City Manager