



DATE: April 28, 2017

TO: Chair and Members of Hayward Successor Agency Oversight Board

FROM: City Manager

SUBJECT Approval of the Repayment of the City Sewer and Water Fund Loan as an Enforceable Obligation

RECOMMENDATION

That the Oversight Board adopts the attached resolution (Attachment II) approving the repayment of the City Sewer and Water Fund Loan as an Enforceable Obligation.

BACKGROUND

The California State Legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law in June of 2011. The California Supreme Court in its decision in *California Redevelopment Association v. Matosantos*, issued December 29, 2011, declared the Dissolution Act to be constitutional. Under the Dissolution Act, all California redevelopment agencies, including the Redevelopment Agency of the City of Hayward (the "Dissolved RDA") were dissolved effective February 1, 2012, at the time that redevelopment agencies were dissolved, most agreements between redevelopment agencies and their sponsoring communities became null and void.

On June 27, 2012, as part of the state budget package, the California legislature enacted AB 1484 ("AB 1484"), amended the original Dissolution Act, and provided that after receiving a finding of completion from the California Department of Finance, loan agreements between the former redevelopment agency and its sponsoring community would be eligible for repayment provided the Oversight Board made a finding that the loan was for legitimate redevelopment purposes.

SB 107, adopted in September 2015 further amended the Dissolution Act to define city/agency loan agreements that are eligible for repayment after receipt of a finding of completion and to set the interest rate for eligible loans. SB 107 defines a loan agreement to mean:

- a. Loans for money entered into between the former redevelopment agency and the sponsoring community pursuant to which the sponsoring community transferred money to the former redevelopment agency for use by the former redevelopment agency for a lawful purpose and where the former redevelopment agency was obligated to repay the money pursuant to a required repayment schedule;

- b. Agreements between the former redevelopment agency and the sponsoring community where the sponsoring community transferred real property to the former redevelopment agency for use by the former redevelopment agency for a lawful purpose and the former redevelopment agency was obligated to pay the sponsoring community for the real property interest;
- c. Agreements between the former redevelopment agency and the sponsoring community under which the sponsoring community contracted with a third party on behalf of the former redevelopment agency for the development of infrastructure in connection with a redevelopment project identified in a redevelopment project plan and the former redevelopment agency was obligated to reimburse the sponsoring community.

SB 107 also provides that any interest on the outstanding principal amount of the loan that was unpaid is to be recalculated from the date of origination of the loan on a quarterly basis at 3% simple interest.

California Health and Safety Code Section 34191.4 established Oversight Board authority to reinstate loan agreements that are eligible for repayment after receipt of a finding of completion

DISCUSSION

The Successor Agency received a finding of completion from the Department of Finance on November 8, 2013. Pursuant to Health and Safety Code Section 34191.4, the Successor Agency is eligible to apply to the Oversight Board for approval of repayment of City/Agency loans. The Successor Agency is requesting that that Oversight Board approve repayment of a City/Agency loan approved pursuant to City Council Resolution 98-187 on November 17, 1998, under which the Former RDA accepted a loan in the amount of \$3,200,000, consisting of \$1,600,000 from City Sewer Fund 611 and \$1,600,000 City Water Fund 621 (the "Sewer and Water Fund Loan"). The City transferred the funds from Sewer Fund 611 and Water Fund 621 to the Former RDA, and the Former RDA used the proceeds from the Sewer and Water Fund Loan for the purpose of funding the acquisition of specified real property located on the northerly portion of the block bounded by Watkins Street, B Street and Mission Boulevard and financing upgrades to the garage and abutting commercial/retail improvements. These were lawful purposes under the then applicable Community Redevelopment Law.

The City and Former RDA agreed that the Sewer and Water Fund Loan would be subject to quarterly compounding interest based on the interest rate of the City's Pool Funds and a repayment schedule was approved by the City. Pursuant to the agreement between the City and Former RDA, the Former RDA was required to make two interest only repayments of \$158,000 and \$190,000, and upon the issuance of long-term debt for the project, the annual debt service on the Sewer and Water Fund Loan was set at \$338,000 per year, including principal and interest charges. The current outstanding obligation on the Sewer and Water Fund is \$1,872,952.

The Oversight Board concludes that the Agenda Report dated November 17, 1998 together with Resolution 98-187 constitutes an agreement under which the City advanced \$3,200,000 of City funds to the Former RDA for legitimate and lawful redevelopment purposes obligated to be repaid according to a set repayment schedule. This is in accordance with the requirements of the Dissolution Act and constitutes a legitimate financial obligation to the City and which constitutes an enforceable obligation under Health and Safety Code Section 34171(d) and 34191.4(b)(2)(A). In making this determination, the Oversight Board has received all of the necessary information regarding the Water and Sewer Fund Loan and has weighed all of the considerations, including the impact of the loan repayment on the taxing entities.

ECONOMIC AND FISCAL IMPACT

The Successor Agency has requested repayment of the Sewer and Water Fund Loan as Item 80 on the Fiscal Year 2017/2018 Recognized Obligation Payment Schedule. Approval by the Oversight Board will confirm the enforceability of the Sewer and Water Fund Loan and result in the repayment of the Sewer and Water Fund Loan pursuant to a repayment schedule in conformance with the requirements set forth in Health and Safety Code Section 34191.4(b)(3).

NEXT STEPS

The Successor Agency will continue to list the Sewer and Water Fund Loan as an enforceable obligation on future Recognized Obligation Payments Schedules until such time as the entire outstanding obligation has been retired. Successor Agency staff will meet and confer with the State Department of Finance on May 1, 2017 at 11:00am to discuss this and other items denied on the Agency's ROPS 17-18.

Prepared and Recommended by:

Dustin Claussen, Director of Finance
John Stefanski, Management Analyst

Approved by:



Kelly McAdoo, City Manager