

A G E N D A

REGULAR MEETING

OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF LA PALMA

October 11, 2012

If you wish to speak before the Oversight Board, please complete a Speaker Form identifying which item(s) you wish to address and provide the Speaker Form to the Clerk of the Board. Speaker Forms are available in the City Hall lobby. Speakers on numbered agenda items and Oral Communications (non-agenda items) are limited to three (3) minutes each.

8:00 a.m.
Council Chambers
7822 Walker Street, La Palma

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ORAL COMMUNICATIONS (Time Limit: 3 Minutes Each)

Time has been reserved at this point in the Agenda for persons wishing to speak on any item that is not listed on the Agenda. By law, the Oversight Board is prohibited from taking action on such oral comments. The matter will be automatically referred to staff for appropriate response or action or will be placed on the Agenda of a future meeting. Matters listed on the Agenda may be addressed either at this time or at the time they are before the Board for discussion.

CONSENT CALENDAR

All matters listed under Consent Calendar will be acted upon by one motion affirming the action recommended on the Agenda. There will be no separate discussion on these items prior to voting unless members of the Oversight Board, Staff, or the public request that specific items be removed from the Consent Calendar for separate action. Any member of the public who wishes

to discuss a Consent Calendar item should come forward to the microphone and, upon recognition by the Chair, state his or her name, address, and the item number.

None Scheduled.

PUBLIC HEARINGS

1. **Consideration of Due Diligence Review of Successor Agency's Low and Moderate Income Housing Fund Cash Assets Pursuant to Health and Safety Code § 34179.5**

Recommendation that the Oversight Board take the following actions:

- a) Open the Public Hearing;
- b) Receive Staff Report;
- c) Receive Public Testimony and Input;
- d) Commission Comments and Questions;
- e) Close the Public Hearing; and
- f) Consider approval of Due Diligence Review on October 18, 2012

REGULAR ITEMS

None Scheduled.

ADJOURNMENT

DECLARATION OF POSTING

I, Laurie A. Murray, City Clerk of the City of La Palma, in the capacity as Clerk of the Board to the Oversight Board to the Successor Agency to the Community Development Commission of the City of La Palma, do hereby declare that the foregoing Agenda for the Oversight Board to the Successor Agency to the Dissolved Community Development Commission of the City of La Palma meeting of October 11, 2012, was posted on the outside entry to the Council Chamber, 7822 Walker Street, the bulletin board at the La Palma Recreation Center located at 7821 Walker Street, and the La Palma Library located at 7822 Walker Street, La Palma, California on October 5, 2012.

NOTE: As a general rule, staff reports or other written documentation have been prepared or organized with respect to each item of business listed on the agenda. Copies of these materials and other disclosable public records distributed to all or a majority of the members of the Oversight Board in connection with an open session item on the agenda are on file and available for inspection with the Office of the City Clerk, City of La Palma, City Hall, 7822 Walker Street, during regular business hours 7:30 A.M. to 5:30 P.M., Monday through Thursday, and alternating Fridays. If such writings are distributed to members of the Oversight Board on the day of an Oversight Board meeting, the writings will be available at the entrance to the City Council Chambers. If you have any questions regarding any item of business on the agenda for this meeting, any of the staff reports, or other documentation relating to any agenda item, please contact Laurie Murray, Administrative Services Manager, at (714) 690-3338.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (714) 690-3334. Notification 48 hours prior to the meeting will enable the City to make reasonable accommodations to ensure accessibility to this meeting.

AGENDA ITEM

Item Number:

1

TO: OVERSIGHT BOARD
FROM: SUCCESSOR AGENCY



Submitted By:

Douglas D. Dumhart,
Community Development
Director



Meeting Date:
October 11, 2012

Subject: Consideration of Due Diligence Review of Successor Agency's Low and Moderate Income Housing Fund Cash Assets Pursuant to Health and Safety Code § 34179.5

RECOMMENDATION:

It is recommended that the Oversight Board take the following actions:

- a) Open the Public Hearing;
- b) Receive Staff Report;
- c) Receive Public Testimony and Input;
- d) Commission Comments and Questions;
- e) Close the Public Hearing; and
- f) Consider Approval of Due Diligence Review on October 18, 2012

SUMMARY:

This item was continued from the Oversight Board meeting of October 4, 2012, due to the fact that Staff as well as the independent auditing firm required additional time (and legal consultation) to interpret Health & Safety Code 34179.5 et al. This additional time meant the Due Diligence Review (DDR) was not available in time for review at the October 4 meeting. Health & Safety Code § 34179.5 requires each Successor Agency to employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a Due Diligence Review of the remaining assets of the former Redevelopment Agency.

The Successor Agency has retained, and the Orange County Auditor-Controller has approved, Vavrinek, Trine, Day and Co., LLC to conduct and prepare the DDR for La Palma. The purpose of the review is to determine the unobligated balances available for transfer from the

Successor Agency to the County Controller's trust fund for redistribution to the other affected taxing entities (ATEs).

BACKGROUND:

The Due Diligence Review (DDR) of the Low and Moderate Income Housing Fund (LMIHF) must be submitted to the Oversight Board, the county auditor-controller, the State Controller's Office and the Department of Finance by October 1, 2012. The Oversight Board has until October 15, 2012, to review, approve, and transmit to the Department of Finance and county auditor-controller the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities.

The Department of Finance (DOF) review of the determinations provided by the Oversight Board is to be completed no later than November 9, 2012. Any decision to overturn determinations made by the Oversight Board to authorize a Successor Agency to retain assets or funds will be conveyed to the Oversight Board and Successor Agency via a letter. Successor Agencies have five days from receipt of the decisions to request a "meet and confer" conference with DOF staff.

The DDR of all other funds and accounts must be submitted to the Oversight Board, the county auditor-controller, the State Controller's Office, and the DOF by December 15, 2012. The Oversight Board has until January 15, 2013, to review, approve, and transmit the DDR of all other funds and cash equivalents that are available for disbursement to taxing entities. The DOF must review this DDR of the other funds no later than April 1, 2013.

Due Diligence Review Requirements

While Health & Safety Code § 34179.6 allows the DOF to specify the form and manner in which information about the review shall be provided, no specific form will be required. However, every DDR submitted must contain at a minimum, the following:

1. A cover page denoting whether or not the review was conducted by a licensed accountant or the county auditor-controller.
2. A summary addressing each of the following six deliverables:
 - (1) The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012.
 - (2) The dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city, county, or city and county that formed the redevelopment agency and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

- (3) The dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.
- (4) The review shall provide expenditure and revenue accounting information and identify transfers and funding sources for the 2010-11 and 2011-12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012, to those reported to the Controller for the 2009-10 fiscal year.
- (5) A separate accounting of the balance for the Low and Moderate Income Housing Fund for all other funds and accounts combined shall be made as follows:
 - (A) A statement of the total value of each fund as of June 30, 2012.
 - (B) An itemized statement listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities. This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.
 - (C) An itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment. For the purpose of this accounting, physical assets may be valued at purchase cost or at any recently estimated market value. The statement shall list separately housing-related assets.
 - (D) An itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation. In addition, the successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. If a review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor

agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations.

- (E) An itemized list and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the Recognized Obligation Payment Schedules for the current fiscal year.
- (6) The review shall total the net balances available after deducting the total amounts described in subparagraphs (B) to (E), inclusive, of paragraph (5). The review shall add any amounts that were transferred as identified in paragraphs (2) and (3) of subdivision (c) if an enforceable obligation to make that transfer did not exist. The resulting sum shall be available for allocation to affected taxing entities pursuant to Section 34179.6.

ANALYSIS:

Given the unreasonably short timelines established by Assembly Bill (AB) 1484 for the preparation and submission of the final DDR, the results of the review will need to be presented to the Oversight Board during their meeting.

Finance and Community Development Department staff worked closely with Vavrinek, Trine, Day & Co., LLP to furnish, to the best of their ability and completeness, the items required by H&SC 34179.5 et al using the DDR spreadsheet template provided by the auditors. The template attempts to put a framework on the various relevant pieces of H&SC 34179.5 et al by laying out the statutory requirements in an easy to follow exhibit format, which follows the agreed upon procedures for the review. Once staff submits the DDR to the DOF, the entire DDR submission, which will include the spreadsheet template and a report from the auditor, will be made available to the Oversight Board and the Successor Agency.

In-lieu of having that template to review prior to the Oversight Board meeting, an explanation of the information included in each, is provided below

EXHIBIT B: Schedule of Asset Transfers to the City

No assets were transferred from the period January 1, 2011, through January 31, 2012. The assets listed as transferred during the period February 1 through June 30, 2012 involve those housing assets listed and approved on the Housing Asset Transfer list submitted to the State Department of Finance on August 1, 2012. Per Resolution #2012-09 (January 17, 2012), the City of La Palma assumed the housing entity function.

EXHIBIT B-1: Low and Moderate Income Housing Fund Listing of Assets

This exhibit lays out the cash and receivables as recorded in the Low-Moderate Income Housing Fund (LMIHF) as of June 30, 2012. The amounts on this spreadsheet tie to trial balance reports produced from the City's accounting system. See Exhibit B for the receivables (Senior Housing Loan and Denni Street Loans) which were transferred out of the Low and Moderate Income Housing Fund (Fund 047) as of June 30, 2012, leaving only cash balance in that fund.

EXHIBIT B-2: Legally Restricted Amounts

The item in this exhibit represents "program revenue" received by the LMIHF from the Senior Housing facility ("Seasons"). In October, 1999, the City of La Palma entered into an agreement with the former Community Development Commission (CDC) to loan money to LINC Housing to develop affordable, senior housing in the City. Per the loan documents, this loan would be repaid using the proceeds of "net operating income" generated by the senior housing facility.

The amount listed in Section B on Exhibit B-2 represents the accumulated program revenue since repayment began in August, 2002. Per the loan agreement, this program revenue is then used to repay the initial development loan. This cash asset in the LMIHF is pledged for loan repayment.

EXHIBIT B-3: Non-Liquid Assets

There are no non-liquid assets left in the Low and Moderate Income Housing Fund (Fund 047). See Exhibit B for the transfer of assets (receivables) per H&SC 34176(a)(1) and City Council action on January 17, 2012.

EXHIBIT B-4: Schedule of Balances for Funding Enforceable Obligations

This schedule lists those enforceable obligations from the January through June 2012, ROPS (ROPS I) for which no RPTTF (i.e., property tax) was received. That is, the six items which were listed on ROPS I were indeed enforceable obligations that were paid, using available cash fund balance from the Low-Moderate Income Housing Fund. These obligations were offset by the program revenue received in FY 2011-12 from Seasons (see Item #1, Column F).

EXHIBIT B-5: Cash Balances Needed to Satisfy Obligations for the 2012/13 FINAL ROPS

The items on this schedule appear on the July through December 2012, ROPS (ROPS III). Again, just like the items on Exhibit B-4, the ROPS III was completed indicating these obligations would be paid using LMIHF funding. No RPTTF funding would be claimed to meet these obligations.

Hence, the existing fund balance as of June 30, 2012, would be needed to pay these enforceable obligations.

EXHIBIT B-6: Summary of Balances for Allocation to Affected Taxing Entities

This summary merely pulls the amounts from the other exhibits together. The one item to note is the Exhibit B-2 amount (related to AUP #6). The amount on this line is net of the amount in Exhibit B-5, the amount of cash fund balance needed to satisfy ROPS III (AUP #9).

FISCAL IMPACT:

Since AB 1484 requires each successor agency to employ a licensed accountant to conduct the mandated due diligence review, many have inquired whether the cost for this requirement will need to come out of the administrative budget of the successor agency. The DOF response posted on their website states,

“To the extent available the cost for the due diligence review should be paid out of the current administrative cost allowance. If there is not sufficient RPTTF available, HSC section 34173 (h) allows the successor agencies to obtain a loan for the cost. This loan, if approved by the successor agency’s oversight board, would qualify as an enforceable obligation. HSC section 34177.3 (b) also allows successor agencies to create an enforceable obligation to conduct the work of winding down the redevelopment agency. The enforceable obligation must be included on the ROPS and approved by the oversight board.”

Staff anticipated the expense for the DDR and included the estimated cost on the third Recognized Obligation Payment Schedule (ROPS III) as a direct line item expense and enforceable obligation. The DOFs conditional approval of the ROPS III includes the DDR audit line item amount as part of the Successor Agency’s administrative allowance (which has an annual cap of \$250,000).

In addition, the outcome of the DDR could result in the Successor Agency needing to remit funds to the County of Orange Auditor-Controller for eventual disbursement to ATEs. Depending on the DOF’s review of the DDR as drafted by VTD and reviewed by Successor Agency staff, the Successor Agency may need to request a “meet and confer” with DOF staff should the Successor Agency disagree with the DOF determination.