

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Osborn Solitei

SUBJECT: FY 2012-13 Budget Amendment  
to Address Disallowed ROPS III Expenditures

DATE: June 24, 2013

City Administrator Approval	<i>Deanna Santana</i>	Date	<i>6/26/13</i>
-----------------------------	-----------------------	------	----------------

COUNCIL DISTRICT: City-Wide

## RECOMMENDATION

Adopt a Resolution amending the City of Oakland's FY 2011-13 Biennial Budget, which was adopted pursuant to Resolution No. 83444 C.M.S. on June 30, 2011 and amended by Resolution 83943 C.M.S. on June 28, 2012, and appropriating an amount not to exceed \$2.1 million from General Purpose Fund undesignated fund balance to cover general Oakland Redevelopment Successor Agency staff and operating costs.

## OUTCOME

The City will have a balanced budget with authorized funding for disallowed administrative expenditures for the Oakland Redevelopment Successor Agency through the end of the current fiscal year (FY 2012-13).

## EXECUTIVE SUMMARY

The purpose of this report is to provide a funding source for Oakland Redevelopment Successor Agency administrative costs previously denied for the Recognized Obligation Payment Schedule ("ROPS") III period (January-June 2013).

On December 18, 2012, the Department of Finance ("DOF") disallowed several items included in the third submittal of Oakland Redevelopment Successor Agency's ("ORSA") Recognized Obligation Payment Schedule (ROPS III) for January through June, 2013. Among other things, DOF denied \$2.1 million in general administrative costs associated with ORSA operations for the period January 1, 2013 through June 30, 2013.

Item: 4  
Finance Committee  
July 9, 2013

The total appropriation request and inter-fund transfer is an amount not to exceed \$2.1 million to cover actual general administrative costs of ORSA for the period January through June 2013, which will be funded from General Purpose Fund undesignated fund balance. The funds will be appropriated for transfer to the Successor Redevelopment Agency Reimbursement Fund (1610). This is a one-time funding need, as these costs going forward are addressed in the FY 2013-15 budget.

### BACKGROUND/LEGISLATIVE HISTORY

The dissolution of redevelopment agencies throughout the state became effective February 1, 2012. Staff has continued to work with the Oakland Oversight Board and the DOF on a number of issues and mandates resulting from the passage of the ABX 26, the dissolution statute, as well as the passage of AB 1484 in June 2012, which amended the dissolution statute.

### ROPS

The DOF reviews the City's ROPS every six months. The Recognized Obligation Payment Schedule (ROPS) III, which covers the period January 1, 2013, through June 30, 2013, was presented to the ORSA board in July 2012, approved by the Oakland Oversight Board in August 2012, and submitted to the DOF prior to the September 1, 2012 deadline. Several line items from the ROPS III were objected to by the DOF. As allowed for in AB 1484, City staff participated in a meet and confer session in early November 2012 with DOF staff to challenge most of the DOF objections.

In its final December 18, 2012 letter, the DOF continued to deny housing project staff costs. In addition, the DOF also denied \$2.1 million in ORSA general administrative costs that were not previously denied as part of their initial ROPS review. The City has strenuously objected to DOF's rejection of both of these items on both procedural and substantive grounds.

On June 21, 2013, after the City provided additional documentation to DOF that linked the housing project staff costs to housing projects approved as enforceable obligations on the ROPS, DOF reversed its position and approved funding of the housing project staff costs for ROPS III and ROPS 13-14A (July-December 2013).

However, the DOF denial of the \$2.1 million in general administrative costs remains unresolved. This creates a budget shortfall for the City for the period January through June 2013. The City Council, acting as the ORSA, has deemed this level of resources as necessary to fulfill the related obligations of the successor agency; however, with the denied allowance to expend former redevelopment funds on these needed services, staff requests one-time funding to cover actual expenses during the period of January through June 2013.

Item: \_\_\_\_\_  
Finance Committee  
July 9, 2013

Per requirements in the redevelopment dissolution law, available cash assets held by the ORSA have been remitted to the County through a "due diligence review" ("DDR") process. The purpose of the DDR was to determine how much in unencumbered cash assets was available from former redevelopment funds for remittance to the County for redistribution to the taxing entities. On November 30, 2012, the DOF determined that \$8.48 million in Low and Moderate Income Housing Funds ("LMIHF") were available and should be remitted to the County for redistribution. As one of the taxing entities, the City received in the form of property tax income approximately \$2.48 million from the \$8.48 million in LMIHF remitted to the County. The \$2.48 million had previously been communicated as a potential source for covering the costs that the DOF disallowed during the ROPS III review. These funds are now part of the General Purpose Fund undesignated fund balance.

### ANALYSIS

The previously approved ORSA administrative budget totals \$5.7 million for FY 2012-13. The ROPS and administrative budget are submitted and approved every six months, so only the amount that was to come from reserve balances for the period January-June 2013 was denied. Under the dissolution statute, there is an administrative allowance for administrative costs funded out of Real Property Tax Trust Fund ("RPTTF") (formerly tax increment), which is capped at three percent of the approved distribution of RPTTF for ORSA obligations for that six month period. For the ROPS III period, the approved obligations to be funded from RPTTF totals \$25.7 million, so the administrative allowance is \$771,503. Therefore the shortfall is approximately \$2.1 million. In previously approved ORSA administrative budgets, the City was allowed to use sources other than RPTTF -- i.e. reserve balances-- to cover any portion of the administrative budget that could not be covered by the three percent allowance payable from RPTTF; however, DOF is now taking the legally-questionable position that the three percent cap limits administrative costs that can be funded from any source, not just RPTTF.

The chart below shows a summary of the administrative budget approved for the ROPS III period, as well as expenditures through June 24, 2013. So far expenditures have exceeded the administrative allowance by nearly \$1.6 million. As of the writing of this report, 1.5 pay periods still remain for the current fiscal year. Modest savings are anticipated from under spending on various operating accounts (O&M), as well as some personnel savings due to vacancies.

Chart 2: Successor Agency administrative budget

SUCCESSOR AGENCY ADMINISTRATIVE BUDGET	FTE	Jan 1 - June 30 Adopted Budget	Actual Through 6-24-2013
Personnel	22.71	\$1,780,234	\$1,546,271
O&M		1,088,244	813,095
<b>TOTAL</b>		<b>\$2,868,478</b>	<b>\$2,359,365</b>
Administrative Allowance (Jan-June 2013)		\$771,503	\$771,503
<b>TOTAL SHORTFALL</b>		<b>(\$2,096,975)</b>	<b>(\$1,587,862)</b>

The amount appropriated and transferred from the General Purpose Fund (1010) to the Successor Redevelopment Agency Reimbursement Fund (1610) will be based on *actual costs* for January 1<sup>st</sup> through June 30<sup>th</sup>, less the administrative allowance of \$771,503. The total amount appropriated and transferred to cover disallowed ROPS III general administration expenditures will not exceed \$2,096,975.

**COORDINATION**

This report was prepared in coordination with the Budget Office, and the City Attorney's Office.

**COST SUMMARY/IMPLICATIONS**

This report speaks in detail to the cost implications and fiscal solution for the City Council to consider. The appropriation to cover no more than \$2.1 million in ORSA administrative costs for the current fiscal year (January-June 2013) is a necessary one-time measure.

**SUSTAINABLE OPPORTUNITIES**

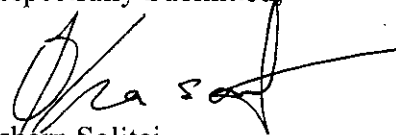
*Economic*: No direct economic opportunities have been identified.

*Environmental*: No direct economic opportunities have been identified.

*Social Equity*: No social equity opportunities have been identified.

For questions regarding this report, please contact Sarah Schlenk, Agency Administrative Manager, City Administrator's Office, at 238-3982.

Respectfully Submitted,



Osborn Solitei,  
Controller

2013 JUN 27 PM 2:59

APPROVED AS TO FORM AND LEGALITY:

BY: [Signature]  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**A RESOLUTION AMENDING THE CITY OF OAKLAND'S FY 2011-13 BIENNIAL BUDGET, WHICH WAS ADOPTED PURSUANT TO RESOLUTION NO. 83444 C.M.S. ON JUNE 30, 2011 AND AMENDED BY RESOLUTION 83943 C.M.S. ON JUNE 28, 2012, AND APPROPRIATING AN AMOUNT NOT TO EXCEED \$2.1 MILLION, FROM GENERAL PURPOSE FUND UNDESIGNATED FUND BALANCE TO COVER GENERAL OAKLAND REDEVELOPMENT SUCCESSOR AGENCY STAFF AND OPERATING COSTS**

**WHEREAS**, redevelopment agencies were dissolved statewide effective February 1, 2012 and replaced with successor agencies charged with winding down the affairs and outstanding obligations of the former redevelopment agencies; and

**WHEREAS**, California Health and Safety Code Section 34177(I), as amended, requires that a Recognized Obligation Payment Schedule ("ROPS") be submitted to and approved by the oversight board, and submitted to the county administrator, the county auditor-controller, the State Controller, and the Department of Finance ("DOF") every six months; and

**WHEREAS**, California Health and Safety Code Section 34177(j) requires a successor agency to prepare a proposed administrative budget for submission to the oversight board for approval every six months; and

**WHEREAS**, the Oakland Redevelopment Successor Agency ("ORSA") prepared a proposed ROPS and administrative budget for January through June of 2013, and submitted said ROPS and administrative budget to the Oakland Oversight Board, the county auditor-controller, the State Controller, and the DOF; and

**WHEREAS**, in its final determination regarding the January – June 2013 ROPS following a meet and confer session with City and ORSA staff, the DOF raised a new objection to the inclusion on the ROPS of certain general administrative costs of ORSA that DOF claims exceed the statutory cap on administrative costs to be funded by distributions from the Redevelopment Property Tax Trust Fund; and

4  
FINANCE & MANAGEMENT CMTTE

JUL - 9 2013

**WHEREAS**, the City and ORSA disagree with the **DOF**'s determination that the funding of general administrative costs are not proper enforceable obligations of and expenditures by ORSA, and otherwise dispute the validity of the **DOF** actions; and

**WHEREAS**, funding of ORSA administrative costs is necessary for the City and ORSA to meet their remaining enforceable obligations, comply with their respective statutory obligations under the dissolution law, and effectively wind down the affairs of the former Redevelopment Agency; and

**WHEREAS**, appropriation of City funds to cover the costs of ORSA administration is needed in order to meet City and ORSA obligations from January 1, 2013 through June 30, 2013; now therefore be it

**RESOLVED:** That the City Council hereby appropriates from the General Purpose Fund (1010), undesignated fund balance funds to cover staff costs and operating expenses for the period January 2013 through June 2013 totaling an amount not to exceed \$2,096,975 for various administrative and operating costs in various departments on ORSA-related activities, as set forth in the ORSA administrative budget; and be it

**FURTHER RESOLVED:** That the City Council authorizes the City Administrator to transfer an amount not to exceed \$2,096,975 from the General Purpose Fund (1010) to the Successor Redevelopment Agency Reimbursement Fund (1610); Successor Agency – Administration Project (A453210) based on actual expenditures between January 1, 2013 and June 30, 2013, less the administrative allowance amount totaling \$771,503; and be it

**FURTHER RESOLVED:** That the City reserves its right to challenge **DOF**'s determinations on the ORSA funding issues, notwithstanding this appropriation; and be it

**FURTHER RESOLVED:** That the above actions with respect to appropriation of funds for ORSA administration are subject to the condition subsequent that ORSA will fund these items when and if ORSA's authority to fund these items is restored, and with the understanding that the City will be reimbursed by ORSA for costs incurred and funds expended by the City for these items should it be determined that these items are proper ORSA obligations; and be it

**FURTHER RESOLVED:** That the City Administrator and her designees are authorized and directed to take whatever action is necessary to validate these items as ORSA responsibilities and to obtain reimbursement of these costs from ORSA if possible; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to take any other action necessary consistent with this Resolution and its basic purposes.

BY COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2013

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN,  
PRESIDENT KERNIGHAN, REID, SCHAAF

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk  
of the Oakland City Council

4

FINANCE & MANAGEMENT CMTTE