



AGENDA REPORT

TO: Edward D. Reiskin
Oakland Redevelopment Successor
Agency (ORSA) Administrator

FROM: Erin Roseman
Director of Finance

SUBJECT: Recognized Obligation Payment
Schedule Fiscal Year 2022-23

DATE: January 4, 2022

ORSA Administrator 
Approval

Date Jan 6, 2022

RECOMMENDATION

Staff Recommends That The Oakland Redevelopment Successor Agency (ORSA) Adopt A Resolution Approving The Submission Of A Recognized Obligation Payment Schedule (ROPS) And ORSA Administrative Budget For July 1, 2022, Through June 30, 2023, And Transmission Of Both To The Countywide Oversight Board, The Alameda County Auditor-Controller And The State Department Of Finance For Approval.

EXECUTIVE SUMMARY

Pursuant to Assembly Bill (AB) X1 26 State legislation dissolving redevelopment agencies, the Oakland Redevelopment Successor Agency (ORSA) is required to prepare a Recognized Obligation Payment Schedule (ROPS) every year. The ROPS includes the cost of managing the enforceable obligations, such as project staff costs and debt service. **Exhibit A** to the attached resolution provides the remaining list of obligations and anticipated payments for July 2022 through June 2023, including the source of payment.

The attached legislation also approves the ORSA administrative budget for submittal to the Alameda Countywide Oversight Board (Oversight Board) for July 2022 through June 2023. The administrative budget is limited to three percent of the amount claimed from the Redevelopment Property Tax Trust Fund (RPTTF) from the previous ROPS period. See **Exhibit B** to the attached resolution adopting the administrative budget. The Oversight Board also has the power to approve the administrative budget.

BACKGROUND/LEGISLATIVE HISTORY

The ROPS is a list of the enforceable obligations from the former Redevelopment Agency, along with estimated payments for those obligations during the ROPS period and the source of funds for those payments. The ROPS must then be approved by the Oversight Board, subject to review by the County Auditor-Controller (County) and the California Department of Finance (DOF), before any eligible payments can be made. Under AB X1 26, only payments listed on its

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adopted ROPS may be made by the successor agency. Enforceable obligations that may be listed on the ROPS include:

1. Bond repayments;
2. Loans borrowed by the Redevelopment Agency;
3. Obligations to the State or Federal governments, or obligations imposed by State law;
4. Payments required in connection with employees;
5. Judgments or settlements;
6. Contracts necessary for the continued administration or operation of the successor agency; and,
7. Any other legally binding and enforceable agreement. These can include consultant contracts or other professional services contracts, construction contracts, commercial and affordable housing loans, as well as grant contracts under the City's Façade, Tenant Improvement, and Neighborhood Project Initiative programs.

There has been substantial legislative history related to the dissolution of redevelopment dating back to 2011, including preparation and approval of ROPS. Most recently, the ROPS fiscal year (FY) 2021-22 was approved by the ORSA Board and the Oversight Board in January 2021 via ORSA Resolution 2021-001. ORSA received a determination from the DOF for ROPS FY 2021-22 in April 2021. In its determination, the DOF denied or reduced several requested line items, including:

- Lines 7, 8, and 10 concerning employee pension, Other Post-Employment Benefits (OPEB), and unemployment obligations (requested \$1,983,500 for the ROPS FY 2021-22 period and a total outstanding amount of \$33.0 million);
- Line 207 concerning the Evelyn Rose Project (requested \$517,500 for the ROPS FY 2021-22 period);
- Line 370 concerning Housing Project Management Costs (requested \$714,950 for the ROPS FY 2021-22 period); and
- Line 426 concerning West Oakland Loan indebtedness (requested the total outstanding amount of \$2,749,243 in ROPS FY 2021-22).

Despite the DOF's disallowance or reduction of these items, staff is continuing to request these funds on the ROPS FY 2022-23 period and will continue to assert that they are enforceable obligations under the statute. As explained below, the City of Oakland (City) and ORSA, collectively, filed a petition for writ of mandate to compel DOF to pay certain of the disallowed items (Lines 7,8 and 10, 207, 370-71, and 426). In addition, the City Attorney is monitoring pending court cases between the DOF and other successor agencies in the state that experienced similar denials of unfunded pension and OPEB obligations.

ORSA received its finding of completion in May 2013. The dissolution law entitles ORSA to certain benefits upon receiving its finding of completion, including:

1. **The use of pre-2011 excess bond proceeds.** A Bond Expenditure Agreement between ORSA and the City was approved by DOF and executed by the City and ORSA in November 2013. ORSA made a payment of approximately \$88 million in excess bond proceeds to the City pursuant to the Agreement and as authorized by

ROPS FY 2013-14B in February 2014 and June 2014. Excess bond proceeds continue to be transferred to the City as they become available either through projects being complete under budget, restricted land sales and/or loan repayments.

2. **The repayment of outstanding loan indebtedness from the former Redevelopment Agency to the City.** In July 2013, the Oversight Board approved a resolution finding that approximately \$2.7 million in outstanding loan indebtedness from the Redevelopment Agency to the City for certain West Oakland projects, was for legitimate redevelopment purposes and thus authorized placement of that obligation on the ROPS. DOF disallowed the loan repayment on ROPS FY 2016-17, despite strong arguments for its inclusion in a meet and confer process. Staff is recommending requesting the repayment again on this ROPS FY 2022-23 totaling \$2,749,243 million (ROPS line #426). Under the dissolution law, 20 percent of loan repayments must be deposited into the Low and Moderate Income Housing Asset Fund for affordable housing.
3. **The submittal of a Long Range Property Management Plan (LRPMP).** ORSA received approval for its LRPMP on May 29, 2014.

On December 5, 2018, the City of Oakland brought a Writ of Mandate against the DOF in Superior Court of California. The writ challenged DOF's:

- Denial of payments pursuant to validly reinstated loans between the City and the former redevelopment agency (ORSA);
- Denial of reimbursements for staff costs associated with ORSA housing assets;
- Refusal to authorize repayment of monies to the low and moderate income housing fund; and,
- Denial of payments to cover ORSA pension and OPEB liabilities.

On July 8, 2019, the Honorable James P. Arguelles ruled in favor of previous DOF's determinations; however, the City will appeal the ruling and continue to challenge the DOF's denials of payments and reimbursements of these ROPS line-items. At the direction of the City Council, acting as the legislative body for both the City and ORSA, the City Attorney's Office is proceeding with an appeal of the denied ROPS item 370 and 426.

The dissolution law requires a successor agency to submit a ROPS approved by its oversight board to DOF by February 1st of each year prior to the ROPS period. DOF must provide its determination by April 15th of each year.

ANALYSIS AND POLICY ALTERNATIVES

As of December 1, 2021, total outstanding obligations on the ROPS was approximately \$437.3 million. ORSA anticipates approximately \$60.5 million in payments through June 2023, which will be used towards agency-wide administrative items, debt service, projects and programs from eight redevelopment areas and from the Low and Moderate Income Housing Fund, as well

as execution of the Bond Expenditure Agreement. Per DOF direction, ORSA re-estimates obligation payments for each ROPS that have not been fully expended or met during previous ROPS periods.

The projected administrative allowance for FY 2022-23 is approximately \$715,782. Note, the administrative budget only includes general administrative costs of the successor agency and does not include project staffing or other project costs, which are instead included in the ROPS as separate enforceable obligations.

In September 2013, the bond rating agencies and bond counsel informed staff that, because the bond covenants require all bond debt service for a calendar year be funded prior to any other obligations, debt service obligations must be “front-loaded” on the first ROPS of the year (i.e., ROPS “B”) to show payment of the full amount available from RPTTF funds to cover those obligations. Therefore, the ROPS “B” request for January-June 2023 includes the full 2023 bond debt service amounts for bond issuances other than: the Housing Set-Aside Revenue Bonds, the 2015 Refunding bonds (ROPS line 644), and the 2018 Refunding bonds (ROPS line 650), which are requested on a semi-annual basis. The debt service amounts due in the fall of 2022 are shown as coming from ‘Reserve Balances’ since those amounts were received with the ROPS FY 2021-22.

ROPS FY 2022-23 includes approximately 100 remaining obligations from seven broad categories, including:

- Operations and staffing;
- Bonds and other debt;
- Grants;
- Disposition and Development Agreements;
- Contracts;
- Neighborhood Projects Initiative; and,
- Low and Moderate Income Housing projects.

ORSA will pay the obligations listed in the ROPS from several former Redevelopment Agency sources, including:

- Bond proceeds;
- Reserve balances;
- Administrative cost allowance;
- Redevelopment Property Tax Trust Fund; and,
- Other, grants, leasing revenue, etc.

The RPTTF is a fund administered by the County that holds property tax funds that formerly would have been the tax increment funds of the Redevelopment Agency. Money from this fund would be available to cover ROPS enforceable obligations only if other funding sources are not available or if payment from property tax revenues is required.

FISCAL IMPACT

The City will not be obligated to use its General Purpose Fund (GPF) to pay for any of the obligations listed in the ROPS FY 2022-23 and administrative budget that are approved by the Countywide Oversight Board and DOF. The approved obligations are paid from existing or future funding sources of ORSA. To the extent that the requests on the ROPS are denied by DOF, other funding sources would need to be identified as part of the FY 2022-23 budget, including both GPF and non-GPF sources.

Pursuant to State dissolution laws, the City receives approximately 29 percent of any RPTTF distribution (which are sometimes referred to as “Boomerang Funds”) after enforceable obligations on the ROPS are satisfied. In the City, pursuant to Chapter 15.168.100 of the Oakland Municipal Code, 25 percent of the residual amount the City receives is deposited into the Affordable Housing Trust Fund (Fund 1870). Many of these projects will have economic benefits for the City, including jobs, property taxes, sales taxes, business taxes, utility taxes, etc. As such, adoption of the attached ORSA resolution would support and advance the Citywide priorities of **housing, economic and cultural security, and a vibrant, sustainable infrastructure.**

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this informational report beyond the standard City Council agenda noticing procedures.

COORDINATION

Staff in the Finance Department worked with the Department of Housing and Community Development, the Economic and Workforce Development Department, and the City Attorney’s Office in preparing the attached ROPS and resolution. The report and resolution were submitted to the City Attorney’s Office and Budget Bureau for review and approval.

SUSTAINABLE OPPORTUNITIES

Economic: The various projects and programs have numerous economic opportunities for Oakland businesses, including contracts for construction and professional services, grants for property owners and businesses and development of key sites to grow existing and attract new businesses.

Environmental: The City’s goal to develop a “Sustainable and Healthy Environment” is applied to each individual project. Each of the projects will incorporate as many “environmental sustainability” features into the design and construction of the project as are practical and financially feasible.

Race and Equity: A racial equity analysis has not been conducted; the race and equity indications are as follows. All public works and infrastructure projects, i.e., parks, public facilities, and streetscapes, will need to comply with the City’s contracting requirements,

including the Small/Local Business Construction Program, the Local/Small Local Business Enterprise Program (L/SLBE) and the Local Employment Program. All workers performing construction work for City-funded projects must be paid prevailing wages.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The Oakland Redevelopment Successor Agency (ORSA) Adopt A Resolution Approving The Submission Of A Recognized Obligation Payment Schedule (ROPS) And ORSA Administrative Budget For July 1, 2022, Through June 30, 2023, And Transmission Of Both To The Countywide Oversight Board, The Alameda County Auditor-Controller And The State Department Of Finance For Approval.

For questions regarding this report, please contact Brittany Hines, Assistant to the Director, at (510) 238-7078.

Respectfully submitted,



ERIN ROSEMAN
Director of Finance

Prepared By:
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Finance Department