



REGULAR MEETING

SUCCESSOR AGENCY OVERSIGHT BOARD
CITY OF CLAYTON, CA

THURSDAY, SEPTEMBER 24, 2015

4:00 p.m.

*First Floor Conference Room, Clayton City Hall
6000 Heritage Trail, Clayton, CA 94517*

OVERSIGHT BOARD MEMBERS

Howard Geller, Vice Mayor City of Clayton	Jonah Nicholas, Contra Costa Community College District
Vito Impastato, CCC Fire Protection District	
Mindy Gentry, former RDA staff	Dan Richardson, Clayton resident
Karen Mitchoff, Contra Costa County Supervisor	Ofelia Roxas, County Office of Education

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the Oversight Board after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

MEETING AGENDA
OVERSIGHT BOARD
SUCCESSOR AGENCY, CITY OF CLAYTON
Thursday September 24, 2015 at 4:00 pm
1st Floor Conference Room
City Hall 6000 Heritage Trail, Clayton CA

1. CALL TO ORDER AND ROLL CALL – Board Chairman Dan Richardson

2. CONSENT CALENDAR

Consent Calendar items are typically routine in nature and are considered for approval by the Board with one single motion. Members of the Board, Audience or Staff wishing an item removed from the Consent Calendar for the purpose of public comment, question, input or action different than recommended may request so through the Board Chairman.

- (a) Minutes of Special Meeting and March 13, 2015

3. INFORMATION ONLY

- (a) Appointment of Mindy Gentry by Mayor for the former RDA employee position.
(b) Letter dated April 8, 2015 from California Department of Finance regarding review and acceptance of ROPs #8 (2015-16A).
(c) Letter dated April 24, 2015 from California Department of Finance regarding completion of review and acceptance of the Clayton Successor Agency Low-Moderate Income Housing Funds Due Diligence Report.
(d) Updated Oversight Board Roster dated September 20, 2015.

4. OVERSIGHT BOARD ACTION ITEMS

- (a) Consideration of Resolution No. 05-2015 approving an Amended 9th Recognized Obligation Payment Schedules (ROPS 2015-16B) for the Successor Agency of the City of Clayton for the time period of January 1, 2016 through June 30, 2016 pursuant to Section 3147(h) and 3477(I)(1) of the California Redevelopment Law Dissolution Act [ABx1 26, and AB 1484].
(Kevin Mizuno, Clayton Finance Manager)

Staff Recommendation: Following presentation, public comment, and Board discussion, adopt Resolution No 5-2015.

5. PUBLIC COMMENT ON NON-AGENDA ITEMS

Members of the public may address the Oversight Board on items within the Board's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Meeting table and submit it in advance to the Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chairperson's discretion. When one's name is called or you are recognized by the Chairperson as wishing to speak, the speaker shall approach the Board and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Board may respond to statements made or questions asked, or may at its discretion request Successor Agency Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the Oversight Board.

5. ADJOURNMENT – the meeting is adjourned on call by the Chairperson.

OF THE
OVERSIGHT BOARD
SUCCESSOR AGENCY, CITY OF CLAYTON, CA

March 13, 2015

1. CALL TO ORDER AND ROLL CALL

Chair Richardson called the meeting to order at 4:10 pm in the 3rd Floor Conference Room of City Hall, 6000 Heritage Trail; Clayton; CA.

Board Members present: Howard Geller, Vice-Mayor of Clayton; Jonah Nicholas, Contra Costa Community District; Dan Richardson, Clayton resident; Ofelia Roxas, County Office of Education.

Board Members absent: Vito Impastato, Contra Costa Fire Protection District; Karen Mitchoff, Contra Costa County Supervisor; Charlie Mullen former RDA Staff member.

Staff present: Asst to the City Manager/Board Clerk: Laura Hoffmeister; Kevin Mizunio, Finance Manager.

2. CONSENT CALENDAR

(a) Minutes – Special meeting of February 26, 2015

Motion to approve by Geller seconded by Nicholas. Motion passed. Vote: 4-0.

3. OVERSIGHT BOARD ACTION ITEMS

(a) Consideration of Resolution No. 3-2015 approving the Clayton Successor Agency Low-Moderate Income Housing Funds Due Diligence Report to be submitted to the CA Department of Finance pursuant to AB 1484 and HSC Section 34179.5 and 34719.6.

Presentation of the report by the Finance Manager Kevin Mizuno; questions asked by Board Members, and responded to by staff. Motion by Geller seconded by Nicholas, to approve Resolution 3-2015 Motion passed. Vote 4-0.

(b) Consideration of Resolution No. 04-2015 approving Clayton Successor Agency Non-Housing Funds (All other Funds) Due Diligence Report to be submitted to the CA Department of Finance pursuant to AB 1484 and HSC Section 34179.5 and 34719.6.

Presentation of the report by the Finance Manager Kevin Mizuno; questions asked by Board Members, and responded to by staff. Motion by Nicolas seconded by Geller, to approve Resolution 4-2015. Motion passed. Vote 4-0.

4. PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

5. ADJOURNMENT

Upon call by Chairperson Richardson, the Board meeting adjourned at 4:35.

APPROVED BY THE OVERSIGHT BOARD

Dan Richardson, Chairperson

ATTEST:

Laura Hoffmeister, Clerk to the Board

#



Agenda Date: 9/24/15

Agenda Item: 3(a)

Memo

To: Laura Hoffmeister, City of Clayton Successor Agency Clerk to the Oversight Board

From: Janet Brown, City Clerk *JB*

Date: September 18, 2015

Re: Replacement appointment to the Oversight Board by Mayor of a member representing employees of the former Clayton Redevelopment Agency.


At its September 15, 2015 meeting, the City Council affirmed the Mayoral appointment of City Community Development Director Mindy Gentry to the Clayton Successor Agency and Housing Agency Oversight Board. This replacement appointment is for the statutory City member representing employees of the former Clayton Redevelopment Agency. The prior appointed person retired recently from the City's employment.



Approved:

Gary A. Napper, City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Laura Hoffmeister, Asst. to the City Manager 
MEETING DATE: September 15, 2015
SUBJECT: Mayoral appointment of a member on the Oversight Board of the Successor Agency to the Former Clayton RDA

REQUEST

It is recommended the City Council affirm Mayor David Shuey's formal appointment of Mindy Gentry to replace the former Community Development Director Charlie Mullen, to the Oversight Board of the City as Successor Agency to the former Clayton Redevelopment Agency (RDA) regarding the conclusion of fiduciary responsibilities of the former Clayton RDA.

BACKGROUND

Under AB1x 26, all redevelopment agencies were dissolved effective 01 February 2012 and replaced by "Successor Agencies" responsible for winding down the affairs of each redevelopment agency including liquidation and disposal of assets. By action at its public meeting on 17 January 2012, the Clayton City Council exercised its priority right to become the "Successor Agency" and the "Successor Housing Agency" to the former Clayton Redevelopment Agency.

Successor Agencies became operative on February 1st and on that date all assets, properties, contracts, and leases of the former redevelopment agency were transferred to the Successor Agency. The City of Clayton therefore is the Successor Agency of the Clayton Redevelopment Agency and hereafter manages and administers the fiduciary responsibilities of the former RDA pursuant to the enforceable obligations identified of the former RDA. Such matters as debt retirement, contractual obligations, loan payments and ensuring all rights are preserved of the various public taxing entities (including those of the City of Clayton) are charges within the Successor Agency's purview. While the former Clayton RDA owns title to only one parcel, The Grove Park, it still has significant debt obligations to retire and contracts to honor over the next several years.

OVERSIGHT BOARDS

Stipulated by law, the respective Oversight Board to the Clayton Successor Agency is composed of seven (7) members with each member appointed as follows:

- a. One member appointed by the Contra Costa County Board of Supervisors (Karen Mitchoff)
- b. One member appointed by the mayor of the community (former Mayor/current Vice-Mayor Geller).
- c. One member appointed by the largest Special District, - Contra Costa County Fire Protection District (Vito Impastato)
- d. One member appointed by elected County Board of Education Superintendent (Ofelia Roxias)
- e. One member appointed by the Chancellor of the California Community Colleges (Jonah Nicholas)
- f. One member of the public appointed by the Contra Costa County Board of Supervisors (Dan Richardson).
- g. One member representing employees of the former redevelopment agency, appointed by the Mayor, from the largest recognized employee organization from the City of Clayton (Miscellaneous Employees Unit; member position currently vacant).

An Oversight Board Member serves at the pleasure of one's appointing entity or person or resignation. If a vacancy occurs the law requires a replacement to be appointed within 60 days, otherwise the State Governor makes an appointment to the vacant position of his choosing.

One Member representing Employees of the former Clayton RDA

Former City Clerk, Laci Jackson Kolc, was appointed by then Mayor Geller, on February 21, 2013 as the one member representing employees of the former Clayton RDA. Ms. Kolc left City employment, and resigned from the Oversight Board effective November 29, 2013. On December 17, 2013, Mayor Hank Stratford appointed Community Development Director Charlie Mullen as the replacement. Mr. Mullen retired from the City of Clayton and resigned the Oversight Board effective July 31, 2015. Mindy Gentry was hired as the new Community Development Director.

For Clayton and many others public entities having small redevelopment agencies, this particular appointment is slightly problematic. The Clayton Redevelopment Agency did not have any employees; existing City employees provided each year numerous and varied operational, professional and programmatic services for and on behalf of the Clayton RDA. The City was reimbursed for its staff time spent in that regard via an annual transfer of monies from the Clayton RDA to the City's General Fund (FY 11-12 budgeted at \$400,000). Due to Dissolution Law, those funds are no longer available and the State now limits reimbursement through the Recognized Obligation Payment (ROPs) to \$250,000 annually. Consequently, there is no person that expressly matches the qualifying definition provided by AB1x 26 as it pertains to Clayton's situation. In the Legislature's vision of these Oversight Boards the concept template was likely large redevelopment agencies that separately employed their own paid staff. The language specifying this membership does conclude with an added qualifier of, "... *from the largest recognized employee organization.*" Application of this condition suggests it may have been the Legislature's intent this particular membership would fall to a former RDA employee holding a job classification within the largest employee bargaining unit working for the RDA [or City].

Embracing that possible intent, the City Manager of Clayton, although an officer of the former Clayton RDA, does not belong to any employee bargaining unit. For that matter, the only “recognized” employee bargaining organization of the City of Clayton is the Clayton Police Officers Association (CPOA), which entity had no individual working for or in behalf of the former Clayton RDA. The Clayton Miscellaneous Employees Group is not a “recognized” employee bargaining unit (definition under the Meyers Milias Brown Act) of the City, although the City does “negotiate” with this informal loose-knit group for purpose of satisfying public employment law to bargain in “good-faith.”

Routinely there were several City of Clayton employees that spent time working on a variety of tasks and responsibilities to and for the former Clayton RDA. In present day, the following City employees primarily provided those services:

Gary Napper	City Manager
Janet Brown	City Clerk/HR Manager
Mindy Gentry	Community Development Director
Kevin Mizuno	Finance Manager
Laura Hoffmeister	Assistant to the City Manager
Jennifer Giantvalley	Accounting Technician

However the Asst. to the City Manager serves as the Oversight Board Clerk/Secretary; the Finance Manager is responsible for preparation of the financial statements to the Oversight Board; the City Manager serves in the oversight capacity to the Finance Manager and technically is the CEO of the Successor Agency. Of the two remaining positions, City Clerk and Community Development Director either could be selected. However, the Community Development Director draws the closest match as working in Redevelopment as the duties included RDA projects and affordable housing projects which were funded through the RDA, and is a member of the largest employee non-sworn bargaining unit of the City (although not an officially “recognized” organization pursuant to the applicable Meyers Milias Brown Act). Therefore, in the absence of any clearer legislative guidance in this situation, and to provide the safest harbor for the City’s Mayoral appointment in this category to defend against any remote challenge of qualification to serve on the Clayton Oversight Board, it is staff’s recommendation that Mindy Gentry is the City’s most eligible candidate for appointment to the recent vacancy in this category.

FISCAL IMPACT

None. Members appointed to the Clayton Oversight Board do not receive any compensation or stipend for their service.

Attachments:

Letter from Finance Manager



Memo

To: Laura Hoffmeister, City of Clayton Successor Agency Clerk to the Oversight Board

From: Kevin Mizuno, Finance Manager

Date: August 26, 2015

Re: Appointment of replacement of Charlie Mullen to Oversight Board by Mayor

Mr. Charlie Mullen served as the City of Clayton Community Development Director and was appointed to the Oversight Board in December 2013, representing the employees of the former redevelopment agency from the largest recognized employee organization that was involved in redevelopment agency matters. His appointment was to replace the former City Clerk who had previously served in that capacity. Mr. Mullen's last day at the office was on July 3, 2015, however he was still receiving City benefits through July 31, 2015. After July 31, 2015 he was no longer on the City benefit/payroll in Finance. Therefore his replacement to the Oversight Board would need to be appointed by the Mayor on or before September 29, 2015. The two staff members in the City that are eligible for appointment are the City Clerk, Janet Brown, or new Community Development Director Mindy Gentry.



April 8, 2015

Mr. Kevin Mizuno, Finance Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear Mr. Mizuno:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Clayton Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 15-16A) to the California Department of Finance (Finance) on February 27, 2015 for the period of July 1 through December 31, 2015. Finance has completed its review of your ROPS 15-16A, which may have included obtaining clarification for various items.

Based on our review, we are approving all of the items listed on your ROPS 15-16A at this time.

The administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (b). However, Finance notes the oversight board has approved an amount that appears excessive, given the number and nature of the obligations listed on the ROPS. HSC section 34179 (i) requires the oversight board to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the oversight board to apply adequate oversight when evaluating the administrative resources required to successfully wind-down the Agency.

Finance review of ROPS 15-16A included the Agency's Oversight Board (OB) Resolution No.1-2015, approving an Agency loan agreement with the City of Clayton (City). The Agency received a loan from the City for the ROPS 14-15B administrative cost allowance not distributed to the Agency. Finance approves the loan listed as Item No. 18 in the amount of \$125,000.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 15-16A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2014 period. HSC section 34186 (a) also specifies prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Proposed CAC adjustments were not received in time for inclusion in this letter; therefore, the amount of RPTTF approved in the table below only reflects the prior period adjustment self-reported by the Agency.

The Agency's maximum approved RPTTF distribution for the reporting period is \$588,829 as summarized in the Approved RPTTF Distribution table below:

Approved RPTTF Distribution	
For the period of July through December 2015	
Total RPTTF requested for non-administrative obligations	472,750
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations on ROPS	\$ 597,750
Total RPTTF requested for non-administrative obligations	472,750
Total RPTTF authorized for non-administrative obligations	\$ 472,750
Total RPTTF requested for administrative obligations	125,000
Total RPTTF authorized for administrative obligations	\$ 125,000
Total RPTTF authorized for obligations	\$ 597,750
ROPS 14-15A prior period adjustment	(8,921)
Total RPTTF approved for distribution	\$ 588,829

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. During the ROPS 15-16A review, Finance requested financial records to support the cash balances reported by the Agency. The Agency was able to support the amounts reported, however, as the review of the Agency's Due Diligence Review reports has not been completed, Finance cannot determine the amount of unencumbered cash with the Agency. Therefore, Finance has not reclassified the available cash balances on the Agency's records. Finance will continue to work with the Agency after the ROPS 15-16A review period to resolve any remaining issues as described above. If it is determined the Agency possesses additional cash balances that are available to pay approved obligations, the Agency should request the use of these cash balances prior to requesting RPTTF in ROPS 15-16B.

Please refer to the ROPS 15-16A schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS>

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2015. This determination only applies to items where funding was requested for the six-month period. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to the enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the agency in the RPTTF.

Pursuant to HSC section 34177 (a) (3), only those payments listed on an approved ROPS may be made by the successor agency from the funds specified in the ROPS. However, if the



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

Agenda Date: 9/24/15

Agenda Item: 3(c)

April 24, 2015

Mr. Kevin Mizuno, Finance Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear Mr. Mizuno:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Clayton Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) to the California Department of Finance (Finance) on March 19, 2015. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the October 15, 2012 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to the November 9, 2012 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

Based on our review, Finance made no adjustments to the LMIHF balance available for allocation to the affected taxing entities. As a result, the unencumbered LMIHF balance available for distribution to the affected taxing entities is \$3,679,225.

HSC section 34179.6 (f) requires successor agencies to transmit to the County Auditor-Controller the amount of funds identified above within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency (RDA), then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a Finding of Completion from Finance. Without a Finding of Completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former RDA and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment

Mr. Kevin Mizuno
April 24, 2015
Page 2

Property Trust Fund once Finance approves the Agency's Long-Range Property Management Plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated August 31, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,


for
JUSTYN HOWARD
Program Budget Manager

cc: Ms. Laura Hoffmeister, Assistant City Manager, City of Clayton
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
California State Controller's Office



Agenda Date: 9/24/15

Agenda Item: 3(d)

OVERSIGHT BOARD
CLAYTON SUCCESSOR AGENCY
9/20/15

Board Members	
<p>Howard Geller Mayor, City of Clayton 6000 Heritage Trail Clayton, CA 9451 Office: 925-673-7300 hgeller@ci.clayton.ca.us</p>	<p>Mindy Gentry Former RDA Employee (Com. Dev. Dir.) 6000 Heritage Trail Clayton, CA 9451 Office: 925-673-7300 mgentry@ci.clayton.ca.us</p>
<p>Vito Impastato Contra Costa County Fire Protection District 1012 Pandero Way Clayton, CA 94517 925-595-1717 vimpastato@iafflocal1230.org</p>	<p>Jonah Nicholas, Board Member Contra Costa Community College District 500 Court Street Martinez, CA 945536 Office 925-229-6944 jnicholas@4cd.edu; or Christia Chellew (cchellew@4cd.edu)</p>
<p>Dan Richardson Public Member 5565 Morningside Drive Clayton, CA 94517 925-672-3712 bckpckdan@comcast.net</p>	<p>Karen Mitchoff County Supervisor, District IV Contra Costa County Board of Supervisors 2151 Salvio Street, Suite R Concord, CA 94520 925-521-7100 SupervisorMitchoff@bos.cccounty.us; or Laura Case (Laura.Case@bos.cccounty.us) Lisa Chow (Lisa.Chow@bos.cccounty.us)</p>
<p>Ofelia Roxas, Business Services Director Contra Costa County Office of Education 77 Santa Barbara Road Pleasant Hill, CAS 94523 925-942-3315 oroxas@cccoc.k12.ca.us</p>	
Successor Agency Staff	
<p>Gary Napper City Manager 6000 Heritage Trail Clayton, CA 94517 925-673-7300 gnapper@ci.clayton.ca.us</p>	<p>Karen Tiedemann Special Legal Counsel Goldfarb & Lipman 1300 Clay Street, 11th Floor Oakland, CA 94612 Phone: 510-836-6336 Karen M. Tiedemann KTiedemann@goldfarbblipman.com</p>
<p>Laura Hoffmeister Assistant to the City Manager 6000 Heritage Trail Clayton, CA 94517 925-673-7300 LHoffmeister@ci.clayton.ca.us</p>	<p>Kevin Mizuno, Finance Manager 6000 Heritage Trail Clayton, CA 94517 925-673-7300 kmizuno@ci.clayton.ca.us</p>




Agenda Date: 9/24/15

Agenda Item: 4(a)

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KEVIN MIZUNO, FINANCE MANAGER, CPA 

DATE: September 24, 2015

SUBJECT: CONSIDER A RESOLUTION TO APPROVE AND ADOPT A 9TH RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 2015-16B), PURSUANT TO THE DISSOLUTION ACT

RECOMMENDATION

It is recommended the Oversight Board, adopt the attached Resolution approving a 9th Recognized Obligation Payment Schedule” (ROPS 2015-16B) covering the timeframe January 1, 2016 through June 30, 2016 pursuant to Section 31471(h) and 34177(l)(1) of the California Redevelopment Law – the Dissolution Act, [ABx1 26 and AB 1484].

BACKGROUND

Under the Dissolution Act, “enforceable obligations” of the former redevelopment agency (e.g. Clayton Redevelopment Agency) include the following financial arrangements (the ROPS of a city or county):

- Bonds
- Loans
- Payments required by state or federal government
- Obligations to employees
- Judgments or settlements
- Binding and legally enforceable agreements entered into before AB1x26
- Contracts for RDA administration, Successor Agency administration, and Oversight Board administration

The monies to fund the requested ROPS funding are issued by the County Auditor-Controller to our City’s “Redevelopment Obligation Retirement Fund”. As its name implies, this fund replaces the former Redevelopment Agency’s three Funds and functions as the

repository for sufficient tax increment revenues in the amounts identified and approved in subsequent ROPS to effectively “retire” all former Clayton Redevelopment Agency debts and contractual obligations over a multi-year period. Once all identified and certified debts and obligations have been satisfied, the Successor Agency is then dissolved.

DISCUSSION

Recognized Obligation Payment Schedule (ROPS)

Included herein, as Attachment 1 to this staff report, is the 9th Recognized Obligation Payment Schedule (ROPS 2015-16B) requesting \$501,424 in redevelopment property tax trust fund (RPTTF) monies. This period (January 1, 2016 through June 30, 2016) is \$96,326 less than in the prior ROPS 2015-16A (July 1, 2015 to December 31, 2015). This decrease is primarily attributable to the prior ROPS requesting RPTTF to pay principal on the 2014 Refunding Tax Allocation Bonds whereas the debt service due in the current ROPS period is interest only.

The State Department of Finance (DOF) Determination Letter pertaining to the Successor Agency’s ROPS 2015-16A dated April 8, 2015 approved all obligations requested on the 2015-16A ROPS Detail Form. A payment for the prior ROPS period was received in full in June 2015.

The current ROPS includes a new line item on Line #19 of the ROPS Detail Form. This new line item is not for a new obligation, but rather a reclassification of previously reported Line #14 for “2% Election Payments per Section 33686” [of the California Health and Safety Code]. On July 7, 2015, after reconsideration of supporting documents and explanations provided by Successor Agency staff, the DOF agreed that Line Item #14 had improperly referred to the underlying obligation as a “loan”. Being that Line #14 actually pertained to unpaid statutory 2% election pass-through monies, the nature of this obligation now reflects a “repayment agreement” rather than a loan.

Classification of this line item as a “loan” since the original ROPS submittal in 2012 made it subject to the strict loan provisions of dissolution law resulting in the DOF’s continuous dismissal of this line item as an enforceable obligation. Guidance received from the DOF on July 7, 2015 specifically stated that under dissolution law, pass-through payments are to be honored, and as such, the 2% election payment line item should be listed on the ROPS for payment in full in the upcoming ROPS period (2015-16B). Consistent with the DOF’s guidance, the Successor Agency is requesting RPTTF monies for the entire balance of the unpaid 2% election monies (\$376,424) in the current ROPS period.

Successor Agency Loans

SERAF loans became eligible for repayment starting in the six month period ending December 31, 2014, provided that the following three circumstances are met: (1) The Successor Agency has completed its Due Diligence Reviews (DDR’s); (2) the results of the DDR’s are reviewed by the Oversight Board; and (3) the Successor Agency has received a Notice of Completion by the DOF.

Both the Low-Moderate Income (LMI) and All Other Funds DDRs were approved by the Oversight Board and submitted to the DOF for review and final approval on March 19, 2015. On April 24, 2015, the Successor Agency received a Final Determination Letter from the DOF approving the LMI DDR "as is" ordering the release of the "unencumbered" balance of the LMI fund (No. 616) to the County totaling \$3,679,225. This payment was remitted to the County on May 1, 2015. At this point in time the All Other Funds DDR is still under review by the DOF, and the date of its completion remains uncertain. As such the SERAF internal loan balance (due from the Successor Agency to the Housing Successor Agency) information is included in the current ROPS in order to track the amount for anticipated future payments although payments are not yet eligible to be received. Management is optimistic a Notice of Completion can be received within six months of receiving the DOF's final approval of the All Other Funds DDR.

Although previously denied in ROPS 1-8 by the DOF, AB 1484 contains language that an agency's prior inter-agency loans may be deemed eligible by DOF commencing on or after FY 2013-14. As Line #13 (ConFire Fire Station note) on the ROPS Detail Form meets the AB 1484 criteria as an inter-agency loan, this former RDA obligation due the City of Clayton has once again been included in the ROPS Detail Form for eligibility tracking and future repayment. Pursuant to AB 1484 state DOF staff have indicated in writing, this Line Item should be eligible for repayment on the ROPS upon the Successor Agency's receipt of a Notice of Completion estimated to occur within six months following the DOF's approval of the All Other Funds DDR.

FISCAL IMPACT

Once approved by the DOF, ROPS 2015-16B will be in place for the Successor Agency to make payments on agreements and other obligations of the former Redevelopment Agency for the period of time January 1, 2016 through June 30, 2016. Absence this approval the Successor Agency is not allowed to make such payments.

Respectively submitted,



Kevin Mizuno, CPA
Finance Manager

Attachments:

- 9th ROPS 15-16B Resolution (3 pp.)
- Exhibit A: 9th Recognized Obligation Payment Schedule (ROPS15-16B)

RESOLUTION NO. 05- 2015

**A RESOLUTION APPROVING AND ADOPTING THE
9th RECOGNIZED OBLIGATION PAYMENT SCHEDULE
(ROPS 2015-16B) FOR THE TIME PERIOD OF
01 JANUARY 2015 THROUGH 30 JUNE 2016,
PURSUANT TO SECTION 31471(h) AND 34177(l)(1)
OF THE CALIFORNIA REDEVELOPMENT LAW**

**THE OVERSIGHT BOARD
Successor Agency for the City of Clayton, California**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Clayton (the "City") adopted in accordance with the California Community Redevelopment Law, City Ordinance No. 243 on 20 July 1987 adopting the Redevelopment Plan for the Clayton Redevelopment Project Area (the "Redevelopment Plan"), as amended from time to time; and

WHEREAS, the Redevelopment Agency of the City of Clayton (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to said Redevelopment Law; and

WHEREAS, Assembly Bill X1 26 (the "Dissolution Act") and Assembly Bill X1 27 (the "Alternative Redevelopment Program Act") were enacted by the State of California on 28 June 2011, to significantly modify the Community Redevelopment Law and to end the existence of or modify continued operation of redevelopment agencies throughout the state (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on 11 August 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of these Redevelopment Restructuring Acts; and

WHEREAS, on 29 December 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies, including the Clayton Redevelopment Agency, are now terminated and have been automatically dissolved on 1 February 2012 pursuant to the Dissolution Act; and

WHEREAS, on 17 January 2012 by Resolution No. 03-2012, the Clayton City Council did exercise its priority right and took action to become the Successor Agency and the Successor Housing Agency of the former Clayton Redevelopment Agency; and

WHEREAS, 29 July 2015 the Department of Finance (DOF) posted instructions for completing the 9th Recognized Obligation Payment Schedule (ROPS 2015-16B) covering the time period of 01 January 2016 through 30 June 2016, including the requirement that the ROPS 2015-16B must be adopted by the Successor Agency, approved by its Oversight Board and submitted electronically to the DOF by 05 October 2015; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of the ROPS is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a project, but instead consists of the continuation of an existing governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program because it merely lists enforceable obligations previously entered into and approved by the former Clayton Redevelopment Agency; and

WHEREAS, the Oversight Board to the City of Clayton Successor Agency has reviewed and duly considered the Staff Report, the proposed 9th Recognized Obligation Payment Schedule (ROPS 2015-16B), plus documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board for the Successor Agency does hereby find the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Oversight Board does hereby approve and adopt the 9th Recognized Obligation Payment Schedule (ROPS 2015-16B), attached hereto as "Exhibit A" and incorporated herein as if fully set forth in this Resolution.

BE IT FURTHER RESOLVED that the Oversight Board authorizes and directs its City Manager or the City Manager's designee to: (1) post the 9th Recognized Obligation Payments Schedule (Exhibit A) on the City's website; (2) designate a City representative to whom all questions related to the 9th Recognized Obligation Payment Schedule can be directed; (3) notify, by mail or electronic means, the County Auditor-Controller, the State Department of Finance, and the State Controller of the Oversight Board's action to adopt the 9th Recognized Obligation Payment Schedule (ROPS 2015-16B), and to provide those persons with the internet website location of the posted schedule and the contact information for the City's designated contact; and (4) to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Recognized Obligation Payment Schedule on behalf of the Oversight Board, Successor Agency, and City.

BE IT FURTHER RESOLVED that if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibit A, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution, Exhibit A

or any part thereof. The Oversight Board, acting for the Successor Agency, hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibit A irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Resolution and of Exhibit A are declared to be severable.

AND BE IT FURTHER RESOLVED that this Resolution shall and does take immediate effect upon its adoption.

PASSED, APPROVED AND ADOPTED by the Oversight Board for the Successor Agency of the City of Clayton, California at a regular public meeting thereof held on the 24th day of September 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE OVERSIGHT BOARD FOR THE
SUCCESSOR AGENCY FOR THE
CITY OF CLAYTON, CA

Dan Richardson, Chair

ATTEST:

Laura Hoffmeister, Clerk of the Board

Recognized Obligation Payment Schedule (ROPS 15-16B) - Summary
 Filed for the January 1, 2016 through June 30, 2016 Period

Name of Successor Agency: Clayton
 Name of County: Contra Costa

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding Sources (B+C+D):		
A	Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding Sources (B+C+D):	\$ 39,848
B	Bond Proceeds Funding (ROPS Detail)	39,848
C	Reserve Balance Funding (ROPS Detail)	-
D	Other Funding (ROPS Detail)	-
E	Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 501,424
F	Non-Administrative Costs (ROPS Detail)	376,424
G	Administrative Costs (ROPS Detail)	125,000
H	Total Current Period Enforceable Obligations (A+E):	\$ 541,272

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
I	Enforceable Obligations funded with RPTTF (E):	501,424
J	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	-
K	Adjusted Current Period RPTTF Requested Funding (I-J)	\$ 501,424

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
L	Enforceable Obligations funded with RPTTF (E):	501,424
M	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
N	Adjusted Current Period RPTTF Requested Funding (L-M)	501,424

Certification of Oversight Board Chairman:
 Pursuant to Section 34177 (m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

 Name Title
 /s/ _____
 Signature Date

Clayton Recognized Obligation Payment Schedule (ROPS 15-16B) - ROPS Detail
 January 1, 2016 through June 30, 2016
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K					O	P
										Funding Source						
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)			RPTTF			
										Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin		
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total	
2	City Loan entered into on 5/19/10	SERAF/ERAF	5/19/2010	1/1/2016	Successor Agency LMI	Inter-loan for SERAF payments to State	All	5,619,111		39,848						
4	Contract for Consulting Services	Fees	11/1/1996	8/31/2024	US Bank	Paying Agent Fees	All	582,412	N							
7	Successor Agency Functions	Admin Costs	1/1/2014	1/1/2016	City of Clayton	Expenses for Successor Agency Operation	All	250,000	Y					125,000	125,000	
8	Contract for Consulting Services	Housing Entity Admin Cost	2/22/2011	12/31/2016	Ranney Planning	Housing Element Implementation	All	50,000	N							
10	Contract for Consulting Services	Dissolution Audits	8/31/2012	7/1/2015	Cropper Accountancy Corp	Successor Agency Due Diligence Review	All		Y							
11	Contract for Consulting Services	Fees	6/7/1988	9/10/2019	NBS Local Government Solutions	RDA Arbitrage Reporting	All	3,750	N							
13	City Loan entered into on 6/17/99	City/County Loans On or Before 6/27/11	6/17/1999	1/1/2016	City of Clayton	City Loan entered into on 6/17/99 Firestation Project	All	475,000	N							
14	City Loan entered into on 2/16/10	City/County Loans On or Before 6/27/11	2/16/2010	1/1/2016	City of Clayton	2% Election Payments per Section 33686	All		Y							
16	Refunding Tax Allocation Bonds 2014	Refunding Bonds Issued After 6/27/12	6/25/2014	8/1/2024	US Bank	Bonds issued to refund the 1996 and 1999 non-housing RDA Tax Allocation Bonds	All	3,865,545	N	39,848					39,848	
17	Contract for bond covenant consulting services (cap analysis)	Professional Services	9/4/2014	8/1/2024	Fraser & Associates	Bond covenant required analysis/report.	All	4,000	N							
18	Short-term cash flow loan entered into on 2/17/15	City/County Loans After 6/27/11	2/17/2015	7/1/2015	City of Clayton	Short-term cash flow loan for admin fees for ROPS 2014-15B period.	All		Y							
19	Section 33686 2% election pass through payments	Miscellaneous	2/16/2010	6/30/2016	City of Clayton	County-confirmed 2% Election Payments per Section 33686 owed (FY 1988-89 through FY 2008-09)	All	376,424	N				376,424		376,424	

Clayton Recognized Obligation Payment Schedule (ROPS 15-16B) - Report of Cash Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see Cash Balance Tips Sheet									
A	B	C	D	E	F	G	H	I	
Cash Balance Information by ROPS Period	Fund Sources							Comments	
	Bond Proceeds		Reserve Balance		Other	RPTTF			
	Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, Grants, Interest, Etc.	Non-Admin and Admin			
ROPS 14-15B Actuals (01/01/15 - 06/30/15)									
1	Beginning Available Cash Balance (Actual 01/01/15)	310,494	11,484	1,325,017	-	81,627	16,329		
2	Revenue/Income (Actual 06/30/15) RPTTF amounts should tie to the ROPS 14-15B distribution from the County Auditor-Controller during January 2015	7,417	-	-	-	30,205	-	C2 - Includes trustee receipt from S/A of \$7,408 in RPTTF to pay 2/1/15 debt service per DOF instruction as well as minor interest earned on accounts held by trustee. G2- Interest on pooled cash and repayment from High Street Bridge and Oak Street Sewer benefit assessment district loans with successor agency. H2 - DOF denied 100% of obligations requested on ROPS 2014-15B.	
3	Expenditures for ROPS 14-15B Enforceable Obligations (Actual 06/30/15) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q	43,818	11,484	-	-	-	7,408	C3 & D3 - Includes payment by trustee of 2/1/15 debt service (\$52,302) on 2014 TABs plus payment of Fraser & Associates invoice (\$3,000) for report required to be issued to trustee per bond covenants.	
4	Retention of Available Cash Balance (Actual 06/30/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	-	-	-	-	-	-		
5	ROPS 14-15B RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 14-15B PPA in the Report of PPA, Column S	No entry required							
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ 274,093	\$ -	\$ 1,325,017	\$ -	\$ 111,832	\$ 8,921		
ROPS 15-16A Estimate (07/01/15 - 12/31/15)									
7	Beginning Available Cash Balance (Actual 07/01/15) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ 274,093	\$ -	\$ 1,325,017	\$ -	\$ 111,832	\$ 8,921		
8	Revenue/Income (Estimate 12/31/15) RPTTF amounts should tie to the ROPS 15-16A distribution from the County Auditor-Controller during June 2015	5	-	-	-	5,000	588,829	C8 & G8 - Estimated interest earnings.	
9	Expenditures for ROPS 15-16A Enforceable Obligations (Estimate 12/31/15)	43,585	-	-	-	-	597,750	C9 - Equal to 8/1/15 interest portion of debt service.	
10	Retention of Available Cash Balance (Estimate 12/31/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	-	-	-	-	-	-		
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ 230,513	\$ -	\$ 1,325,017	\$ -	\$ 116,832	\$ -		

Clayton Recognized Obligation Payment Schedule (ROPS 15-16B) - Report of Prior Period Adjustments
 Reported for the ROPS 14-15B (January 1, 2015 through June 30, 2015) Period Pursuant to Health and Safety Code (HSC) section 34186 (a)
 (Report Amounts in Whole Dollars)

ROPS 14-15B Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 14-15B (January through June 2015) period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 15-16B (January through June 2016) period will be offset by the SA's self-reported ROPS 14-15B prior period adjustment. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	
Item #	Project Name / Debt Obligation	Non-RPTTF Expenditures						RPTTF Expenditures											Net SA Non-Admin and Admin PPA (Amount Used to Offset ROPS 15-16B Requested RPTTF)	SA Comments
		Bond Proceeds		Reserve Balance		Other Funds		Non-Admin					Admin							
		Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF (ROPS 14-15B distributed + all other available as of 01/1/15)	Net Lesser of Authorized / Available	Actual	Difference (if K is less than L, the difference is zero)	Authorized	Available RPTTF (ROPS 14-15B distributed + all other available as of 01/1/15)	Net Lesser of Authorized / Available	Actual	Difference (if total actual exceeds total authorized, the total difference is zero)	Net Difference (M+R)		
1	1996 Tax Allocation	\$ 175,874	\$ 49,874	\$ -	\$ -	\$ -	\$ -	\$ 7,408	\$ 7,408	\$ 7,408	\$ 7,408	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
2	1996 Tax Allocation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
3	City Loan entered into on 5/19/10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
4	Contract for Consulting Services	1,980	1,980	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
5	Contract for Consulting Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
6	Contract for Consulting Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
7	Successor Agency Functions	125,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Pursuant to legal opinion letter sent to Justyn Howard dated 1/20/15, using bond proceeds to pay this EO would cause the bonds to become "taxable". DOF and SA agreed to pay for this with RPTTF in next ROPS period and from RPTTF on go forward basis.
8	Contract for Consulting Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
11	Contract for Consulting Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
13	City Loan entered into on 6/17/99	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
14	City Loan entered into on 2/16/10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
16	Refunding Tax Allocation Bonds 2014	44,894	44,894	-	-	-	-	7,408	7,408	7,408	7,408	-	-	-	-	-	-	-	-	
17	Contract for bond covenant consulting services (cap analysis)	4,000	3,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Pursuant to legal opinion letter sent to Justyn Howard dated 1/20/15, using bond proceeds to pay this EO would cause the bonds to become "taxable". DOF and SA agreed to pay for this with RPTTF in next ROPS period and from RPTTF on go forward basis.

