

RESOLUTION NO. 28

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE FORMER MILPITAS REDEVELOPMENT AGENCY APPROVING A
RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF
JANUARY 1 TO JULY 31, 2014 (FY 13-14B)**

WHEREAS, the California State Legislature enacted Assembly Bill x1 26 to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code section 33000 et seq.), as amended by Assembly Bill 1484, Statutes of 2012, enacted June 27, 2012 (the "Dissolution Law"); and

WHEREAS, the Dissolution Law requires the Successor Agency to a former redevelopment agency to submit to the Oversight Board for its approval, no later than October 1, 2013, a Recognized Obligation Payment Schedule covering the period January 1, 2014, to July 31, 2014 (ROPS 13-14B); and

WHEREAS, in accordance with AB 1484, the Successor Agency to the former Milpitas Redevelopment Agency ("Successor Agency") prepared and submitted ROPS 13-14B to the County Administrative Officer, the County Auditor-Controller, and the Department of Finance at the same time the Successor Agency submitted the ROPS to the Oversight Board of the Successor Agency ("Oversight Board") for its consideration and approval; and

WHEREAS, the ROPS 13-14B has been considered by the Oversight Board at a public meeting.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board has considered the full record before it, which includes but is not limited to the staff report, testimony by staff and the public, the objection letter from the County Auditor-Controller dated September 10, 2013, and other materials and evidence provided to it.

BE IT FURTHER RESOLVED that the Oversight Board approves ROPS 13-14B as revised by the Oversight Board to amend line items 3, 4, 6, 7, 8, and 10, by replacing the sums included in columns I and P with zeros, consistent with the County Auditor-Controller's objection letter attached hereto.

BE IT FURTHER RESOLVED that the Oversight Board directs Successor Agency staff to forward the approved ROPS, as revised, to the Santa Clara County Auditor-Controller, the California Department of Finance, and the California State Controller's Office for certification and approval.

PASSED AND ADOPTED this 12th day of September, 2013, by the following vote:

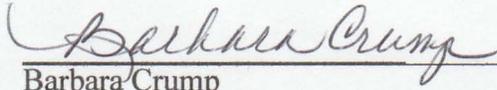
AYES: (5) Mendizabal, Grilli, Knopf, McInerney, Williams

NOES: (2) Gomez, Karlen

ABSENT: (0)

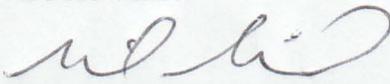
ABSTAIN: (0)

ATTEST:



Barbara Crump
Oversight Board Secretary

APPROVED:



Michael Mendizabal
Oversight Board Chair

County of Santa Clara

Finance Agency
Controller-Treasurer



County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5206 FAX 287-7629

NOTICE OF OBJECTION TO ROPS

Tuesday, September 10, 2013

City of Milpitas
455 E Calaveras Blvd
Milpitas, CA 95035

City of Milpitas Oversight Board
455 E Calaveras Blvd
Milpitas, CA 95035

Department of Finance
915 L Street
Sacramento, CA 95814

ROPS Period: January 1, 2014 to June 30, 2014 - ROPS 13-14B

Successor Agency: City of Milpitas

To the Successor Agency, Oversight Board, and Department of Finance:

Pursuant to Health and Safety Code section 34182.5, my office has reviewed the Recognized Obligation Payment Schedule (ROPS) submitted by the above-noted successor agency for the above-noted period. After reviewing all items and funding sources, the Santa Clara County Auditor-Controller objects to the following items and/or funding sources on the submitted ROPS:

<u>Item No.</u>	<u>Project Name /Description</u>	<u>Funding Source:</u>	<u>Reason for Objection:</u>
3, 4	LMIHF Loan - Land Purchase	Non-Admin RPTTF	These items represent intrafund loans from the LMIHF. DOF and the State Controller have determined that these loans were made for unpermitted non-LMIHF purposes and cannot be paid or transferred to the Successor Housing Entity. Therefore, these items must be retired to reflect a "\$0" balance.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

			<p>By letter dated August 31, 2012, the Department of Finance (DOF) denied the transfer of these obligations to the Successor Housing Agency. These items did not meet the definition of housing asset in Health and Safety Code (HSC) section 34176(e) because the items were interfund transfers between the former RDA's LMIHF and the Capital Projects Fund for non-LMIH purposes.</p> <p>By letter dated October 15, 2012, DOF denied this item as an enforceable obligation with reference to the Auditor-Controller's objection letter dated September 25, 2012. Pursuant to HSC section 34178(a), oversight boards and successor agencies may not restore funding to an obligation that was deleted or reduced by DOF unless it reflects decisions made during the meet and confer process or pursuant to a court order.</p>
6	Disposition and Development Agreement - LMI Housing Assistance		<p>Based on our review of the agreement and available supporting documentation, this agreement terminated pursuant to Article 3.6.1 in November 2011. This item must be retired to reflect a "\$0" balance.</p> <p>By letter dated October 15, 2012, DOF denied this item as an enforceable obligation with reference to the Auditor-Controller's objection letter dated September 25, 2012. Pursuant to HSC section 34178(a), oversight boards and successor agencies may not restore funding to an obligation that was deleted or reduced by DOF unless it reflects decisions made during the meet and confer process or pursuant to a court order.</p>
7, 8	Cooperation Agreement - Unfunded pension and medical benefits liability allocated to former RDA employees	Non-Admin RPTTF	<p>These items should be retired and reflect a "\$0" balance.</p> <p>By letter dated October 15, 2012, DOF denied this item as an enforceable obligation with reference to the Auditor-Controller's objection letter dated September 25, 2012.</p>

		<p>Pursuant to HSC section 34178(a), oversight boards and successor agencies may not restore funding to an obligation that was deleted or reduced by DOF unless it reflects decisions made during the meet and confer process or pursuant to a court order.</p> <p>The Auditor-Controller maintains the following objections to these items. First, the suggested obligations do not meet the definition of “enforceable obligation” under HSC section 34171(d). The obligations arise from the Cooperation Agreement entered into between the former RDA and the City of Milpitas dated May 18, 1976. Pursuant to HSC sections 34171(d)(2) and 34178(a), this agreement is void and not an enforceable obligation. Moreover, HSC section 34171(d)(1) only supports payment of pension obligations for <i>agency</i> employees.</p> <p>Second, even assuming the Cooperation Agreement was valid, its terms do not establish an obligation for the RDA to pay for pension or other benefits. Section 2 of the agreement states the RDA shall pay all-inclusive hourly rates for services rendered by City employees. The RDA has no further obligation to fund City employee retirement beyond the rate charged by City and already reimbursed by RDA in prior years. Assuming a balance remained pursuant to the agreement, any outstanding amounts owed are subordinate to all other debts and obligations of the former RDA.</p> <p>Third, even assuming these were considered enforceable obligations, the methodology used to calculate the pension obligations is flawed because it is based on a generic overhead cost allocation of the RDA as applied to all City employees, and not an actuarial report related to any specific personnel who worked on RDA matters. (See</p>
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			also page 18 of the Auditor-Controller's Phase 2 Dissolution Audit of the Redevelopment Agency of the City of Milpitas, dated October 10, 2010, previously provided to the Oversight Board and incorporated herein by reference.)
10	Litigation Costs - Litigation costs related to the wind down of RDA	Non-Admin RPTTF	This line is no longer needed and should be retired and reflect a "\$0" balance.

In accordance with section 34182.5, if the Oversight Board disputes any of these objections, it may choose to refer such disputed findings to the Department of Finance for final determination.

Please note that items and/or funding sources not questioned during this review are subject to subsequent review if they are included on a future ROPS. We also reserve the right to object to an item and/or funding source (including, but not limited to, the use of fund balance) on a future ROPS, even if no objection was made on a preceding ROPS.

Additionally, pursuant to Health and Safety Code section 34186(a), the County Auditor-Controller may audit the prior period payments and the prior period estimated versus actual payments reported on the ROPS. This audit is ongoing, and this letter does not apply to the true-up of prior period payments.

Sincerely yours,



Irene
 Irene Lui, C.P.A.
 Controller-Treasurer
 County of Santa Clara

Attachments:

- Department of Finance Letter regarding the Housing Asset Transfer Form
(Aug. 31, 2012)
- Department of Finance Letter regarding Meet-and-Confer for ROPS III
(October 15, 2012)
- ROPS 13-14B as submitted to the County Auditor-Controller by Successor Agency



August 31, 2012

Ms. Emma Karlen, Finance Director
Milpitas Housing Authority
455 East Calaveras Boulevard
Milpitas, California 95035

Dear Ms. Karlen:

Subject: Housing Assets Transfer Form

Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the Milpitas Housing Authority (Authority) submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on August 1, 2012 for the period February 1, 2012 through August 1, 2012.

HSC section 34176 (e) defines a housing asset. Assets transferred deemed not to be a housing asset shall be returned to the successor agency. Finance has completed its review of your Form, which included obtaining clarification for various items. Based on a sample of line items reviewed and the application of law, Finance is objecting an asset or transfer of asset identified on your Form.

Exhibit D, Item 107 is a \$7.4 million receivable balance. The receivable is derived from an inter-fund loan the former Redevelopment Agency's Low and Moderate Income Housing Fund (LMIHF) provided to the City of Milpitas (City). The purpose of the loan was to fund a City streetscape improvement project, a non-LMIHF project. HSC Section 34176 (e) (3) allows for a transfer of any loan or grant receivable funded from the LMIHF from homebuyers, homeowners, nonprofit or for-profit developers to the Authority. However, the receivable is not derived from low and moderate income housing-related loans or grants. Therefore, the \$7.4 million receivable is not a housing asset and may not be transferred to the Authority.

Except for the item disallowed as noted above, Finance is not objecting to the remaining items, if any, listed on your Form. If you disagree with our determination with respect to any items on the Form, you may request a Meet and Confer within five business days of receiving this letter.

Please direct inquiries to Robert Scott, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: On the following page

Ms. Karlen
August 31, 2012
Page 2

Ms. Irene Lui, Division Manager, Santa Clara County Controller-Treasurer
Ms. Jacelyn Ma, Property Tax Apportionment Manager, County of Santa Clara
Ms. Manju Beher, Internal Auditor Supervisor, County of Santa Clara
California State Controller's Office



October 15, 2012

Ms. Emma Karlen, Financial Services Director
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Dear Ms. Karlen:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Milpitas Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 31, 2012 for the period of January through June 2013. Finance has completed its review of your ROPS III, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on review and application of the law, following do not qualify as enforceable obligations:

The following items were not approved by the Oversight Board in their August 16, 2012 meeting and no documents were provided showing the Agency is obligated to make payments:

- Item 3 and 4 – “LMIHF Loan” totaling 9.4 million funded by the Redevelopment Property Tax Trust Fund (RPTTF) funding
- Item 6, 7, and 8 – Cooperative Agreements and Development and Disposition Agreements (DDA) totaling \$17.7 million funded by the RPTTF funding.

The Santa Clara County Finance Agency issued a “NOTICE OF OBJECTION TO ROPS” letter dated September 25, 2012 objecting to the above items for the same reason: no Oversight Board approval and not documents obligating the Agency to make payments.

Except for items denied in whole or in part as enforceable obligations as noted above, Finance is approving the remaining items listed in your ROPS III. If you disagree with the determination with respect to any items on your ROPS III, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance’s website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency’s maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is: \$8,373,312 as summarized below:

Approved RPTTF Distribution Amount	
For the period of January through June 2013	
Total RPTTF funding requested for obligations	\$ 8,129,429
Less: Six-month total for items(s) denied	
Item 3	0 *
Item 4	0 *
Item 6	0 *
Item 7	0 *
Item 8	0 *
Total approved RPTTF for enforceable obligations	\$ 8,129,429
Plus: Allowable RPTTF distribution for administrative cost for ROPS III	243,883
Total RPTTF approved:	\$ 8,373,312

*No RPTTF funding requested for the reporting period

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

Please refer to the ROPS III schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS/ROPS III Forms by Successor Agency/>.

All items listed on a future ROPS are subject to a subsequent review. An item included on a future ROPS may be denied even if it was not questioned from the preceding ROPS.

The amount available from the RPTTF is the same as the property tax increment that was available prior to 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 successor agency in the RPTTF.

Please direct inquiries to Bob Scott, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,


STEVE SZALAY
Local Government Consultant

cc: Ms. Jane Corpus Takahashi, Finance Manager, City of Milpitas
Ms. Irene Lui, Controller-Treasurer, Santa Clara County

Recognized Obligation Payment Schedule (ROPS 13-14B) - Summary

Filed for the January 1, 2014 through June 30, 2014 Period

Name of Successor Agency: Milpitas
Name of County: Santa Clara

Current Period Requested Funding for Outstanding Debt or Obligation	Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding	
A Sources (B+C+D):	\$ -
B Bond Proceeds Funding (ROPS Detail)	-
C Reserve Balance Funding (ROPS Detail)	-
D Other Funding (ROPS Detail)	-
E Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 9,687,291
F Non-Administrative Costs (ROPS Detail)	9,417,965
G Administrative Costs (ROPS Detail)	269,326
H Current Period Enforceable Obligations (A+E):	\$ 9,687,291
Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
I Enforceable Obligations funded with RPTTF (E):	9,687,291
J Less Prior Period Adjustment (Report of Prior Period Adjustments Column U)	-
K Adjusted Current Period RPTTF Requested Funding (I-J)	\$ 9,687,291
County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
L Enforceable Obligations funded with RPTTF (E):	9,687,291
M Less Prior Period Adjustment (Report of Prior Period Adjustments Column AB)	-
N Adjusted Current Period RPTTF Requested Funding (L-M)	9,687,291

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

Recognized Obligation Payment Schedule (ROPS) 13-14B - Report of Fund Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177(l), 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.											
A	B	C	D	E	F	G	H	I	J	K	
Fund Balance Information by ROPS Period		Fund Sources								Comments	
		Bond Proceeds		Reserve Balance		Other	RPTTF		Total		
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Due Diligence Review balances retained for approved enforceable obligations	RPTTF balances retained for bond reserves	Rent, Grants, Interest, Etc.	Non-Admin	Admin			
ROPS III Actuals (01/01/13 - 6/30/13)											
1	Beginning Available Fund Balance (Actual 01/01/13) Note that for the RPTTF, 1 + 2 should tie to columns L and Q in the Report of Prior Period Adjustments (PPAs)						203,967	-	\$	203,967	
2	Revenue/Income (Actual 06/30/13) Note that the RPTTF amounts should tie to the ROPS III distributions from the County Auditor-Controller						8,129,429	243,883	\$	8,373,312	
3	Expenditures for ROPS III Enforceable Obligations (Actual 06/30/13) Note that for the RPTTF, 3 + 4 should tie to columns N and S in the Report of PPAs						8,129,429	243,883	\$	8,373,312	
4	Retention of Available Fund Balance (Actual 06/30/13) Note that the Non-Admin RPTTF amount should only include the retention of reserves for debt service approved in ROPS III								\$	-	
5	ROPS III RPTTF Prior Period Adjustment Note that the net Non-Admin and Admin RPTTF amounts should tie to columns O and T in the Report of PPAs.	No entry required								\$	-
6	Ending Actual Available Fund Balance (1 + 2 - 3 - 4 - 5)	\$	-	\$	-	\$	-	\$	-	\$	203,967
ROPS 13-14A Estimate (07/01/13 - 12/31/13)											
7	Beginning Available Fund Balance (Actual 07/01/13) (C, D, E, G, and I = 4 + 6, F = H4 + F6, and H = 5 + 6)	\$	-	\$	-	\$	-	\$	-	\$	203,967
8	Revenue/Income (Estimate 12/31/13) Note that the RPTTF amounts should tie to the ROPS 13-14A distributions from the County Auditor-Controller						9,570,462	293,233	\$	9,863,695	
9	Expenditures for 13-14A Enforceable Obligations (Estimate 12/31/13)						9,774,429	293,233	\$	10,067,662	
10	Retention of Available Fund Balance (Estimate 12/31/13) Note that the RPTTF amounts may include the retention of reserves for debt service approved in ROPS 13-14A								\$	-	
11	Ending Estimated Available Fund Balance (7 + 8 - 9 - 10)	\$	-	\$	-	\$	-	\$	-	\$	-

Recognized Obligation Payment Schedule 13-14B - Notes
January 1, 2014 through June 30, 2014

Item #	Notes/Comments
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