



**AGENDA  
OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY  
TO THE MANTECA REDEVELOPMENT AGENCY  
REGULAR MEETING  
AUGUST 28, 2012  
2:00 P.M.  
CITY COUNCIL CHAMBERS  
1001 W. CENTER STREET**

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The Oversight Board has been created pursuant to § 34161 through 34190 of the Health and Safety Code for the sole purpose of overseeing the actions of the Successor Agency to the Manteca Redevelopment Agency. In accordance with Health and Safety Code § 34179(h), all Oversight Board Actions shall not be effective for three business days, pending a request for review by the State Department of Finance (“Department”). In the event that the Department requests a review of a given Oversight Board action, it shall have 10 days from the date of its request to approve the Oversight Board action or return it to the Oversight Board for reconsideration, and such Oversight Board action shall not be effective until approved by the Department. In the event that the Department returns the Oversight Board action to the Oversight Board for reconsideration, the Oversight Board shall resubmit the modified action for Department approval, and the modified Oversight Board action shall not become effective until approved by the State.

**Reports and documents relating to each of the following items listed on the agenda, including those received following posting/distribution, are on file in the Office of the Secretary to the Successor Agency to the Manteca Redevelopment Agency/City Clerk and are available for public inspection during normal business hours, Monday – Friday, 7:30 a.m. – 5:30 p.m., closed alternating Fridays, 1001 W. Center Street, Manteca, CA 95337, telephone (209) 456-8017.**

**Please contact the Office of the Secretary of the Successor Agency to the Manteca Redevelopment Agency, 1001 W. Center Street, Manteca, CA, (209) 456-8017, for assistance with access to any of the agenda, materials, or participation at the meeting.**

**CALL TO ORDER/ROLL CALL:** Chairman Quaresma

**A. STAFF REPORTS**

1. Approve Oversight Board of the Successor Agency to the Manteca Redevelopment Agency meeting minutes of June 26, 2012.
2. Receive and file summary report on AB X1 26 and AB 1484 relating to the dissolution of redevelopment.
3. Adopt a resolution approving a proposed administrative budget for the six-month period from January 1, 2013 through June 30, 2013 and taking certain related actions.

4. Adopt a resolution approving the Recognized Obligation Payment Schedule (ROPS) for the six-month fiscal period from January 1, 2013 through June 30, 2013, and taking certain related actions.
5. Approve the concept of retaining legal counsel for the Oversight Board of the Successor Agency to the Manteca Redevelopment Agency.

## **B. ORAL COMMUNICATIONS**

*Persons who do not have items on the agenda may approach the Oversight Board of the Successor Agency at this time. Please complete the Request to Speak form located next to the agendas in the back of the Council Chambers and give same to the Secretary/City Clerk prior to the meeting. Those who wish to speak to items not placed on the agenda will be limited to three (3) minutes per speaker. Although the Board encourages the public to participate in the meeting, proper decorum must be assured at all times. Therefore, no personal attacks will be permitted.*

## **C. ADJOURNMENT**

This meeting of the Oversight Board of the Successor Agency to the Manteca Redevelopment Agency will adjourn to the next regular meeting of the Board to be held on Tuesday, **September 25, 2012, 2:00 p.m.**, in the City Council Chambers, 1001 W. Center Street, Manteca, California.

**This notice of a regular meeting of the Oversight Board of the Successor Agency to the Manteca Redevelopment Agency was posted on the Bulletin Board at City Hall, 1001 W. Center Street, Manteca, California and at the following website [http://www/successoragency/index.html](http://www.successoragency/index.html) on August 23, 2012.**

**JOANN TILTON, MMC  
SECRETARY/CITY CLERK**

**MINUTES OF THE OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY TO THE MANTECA  
REDEVELOPMENT AGENCY HELD JUNE 26, 2012**

The regular meeting of the Oversight Board of the Successor Agency to the Manteca Redevelopment Agency held June 26, 2012, in the City Council Chambers, 1001 W. Center St., Manteca, California, was called to order by Chairman Daryll Quaresma at 2:03 p.m.

Roll Call: Board Members Anderson (Alternate for Thomas), Kahn, Shields, Weatherford and Quaresma. Also present, Alternate Members Harris and Holbrook. Board Members Madison, Keokham, Thomas and Yatooma were absent.

**A. CONSENT CALENDAR**

1. Approve Oversight Board of the Successor Agency to the Manteca Redevelopment Agency meeting minutes of May 22, 2012.

**ACTION: APPROVE CONSENT CALENDAR ITEM A.1.** (Weatherford/Khan) The motion carried unanimously (5-0).

2. Adopt a resolution approving the Modified Amended Recognized Obligation Payment Schedule (ROPS) for the six-month period commencing January 1, 2012 and ending June 30, 2012, and the ROPS for the six-month period commencing July 1, 2012 and ending December 21, 2012 as approved by the California Department of Finance.

The Executive Director introduced the report.

The Board asked clarifying questions of staff.

**ACTION: APPROVE CONSENT CALENDAR ITEM A.2** (Weatherford/Khan) The motion carried unanimously (5-0).

**B. STAFF REPORTS**

1. Approve pro-rata sharing of costs between each of the Oversight Board Agencies for retaining independent legal counsel.

The Executive Director introduced the item and provided a brief overview. The Executive Director, Finance Director and Economic Development Director responded to questions and concerns of the Oversight Board.

**The Board reached a consensus to have staff further research the issue and present findings at the next meeting.**

Following discussion of the Board, the Executive Director reported on possible meeting locations for off-sight meetings.

**C. ORAL COMMUNICATIONS**

No one appeared to speak to the Oversight Board.

**D. ADJOURNMENT**

With nothing further to come before the Oversight Board of the Successor Agency to the Manteca Redevelopment Agency, the meeting adjourned at 2:28 p.m., to the next regular meeting of the Oversight Board of the Successor Agency to the Manteca Redevelopment Agency to be held on Tuesday, **July 24, 2012, at 2:00 p.m.**, in the City Council Chambers, 1001 W. Center Street, Manteca, California.

**JOANN TILTON, MMC  
AGENCY SECRETARY**

**DARYLL QUARESMA  
CHAIRMAN**

**ITEM A.02**

OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY  
TO THE MANTECA REDEVELOPMENT AGENCY

To: Members of the Oversight Board

From: Karen L. McLaughlin, Successor Agency Executive Director

Date: August 22, 2012

Subject: Summary of AB X1 26 and AB 1484

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Recommendation:

Receive summary report on AB X1 26 and AB 1484 relating to the dissolution of redevelopment.

Background:

On June 27, 2012, Governor Brown signed into law Assembly Bill 1484 – a redevelopment budget trailer bill, which became effective immediately. AB 1484 substantially impacts many aspects of AB X1 26 (“AB 26”) – legislation approved and upheld in the courts in 2011, dissolving redevelopment agencies.

Richards, Watson and Gershon, legal counsel to the Successor Agency to the Manteca Redevelopment Agency, has prepared the attached summary, highlighting the changes to AB 26 via the newly adopted AB 1484. This new legislation provides some clarification to some of the ambiguities in AB 26, but still leaves many unresolved.

Of significant importance to Manteca, AB 1484 provides a process that authorizes successor agencies, with approval of their oversight boards, to proceed with projects funded through bond proceeds, even if those projects do not have specific contracts – a previous requirement to be considered an “enforceable obligation.” These projects can proceed as long as the projects are consistent with the description included in the original bond documents, and those projects have been included on approved Recognized Obligation Payment Schedules (ROPS).

AB 1484 also establishes a clearer methodology for the disposal of redevelopment-owner property, requiring the preparation of a Property Management Plan to evaluate the disposal of individual pieces of property. This provides some relief in the timing of disposing of property, rather than forcing more-immediate “fire sales.”

Staff is continuing to work with legal counsel on the various actions that need to be taken as required by AB 1484. This summary report was also be provided to the Successor Agency at its meeting of August 21.

*Fiscal Impact:*

Any specific fiscal impacts will be defined as individual projects are brought forward.



## **AB X1 26 and AB 1484 Summary**

August 14, 2012

For more information contact: Robin Harris or Trisha Ortiz  
Telephone 213.626.8484 Facsimile 213.626.0078  
[www.rwglaw.com](http://www.rwglaw.com)

## **I. Introduction**

On June 27, 2012, the Governor signed the redevelopment budget trailer bill, AB 1484, and it became effective immediately. AB 1484 substantially impacts many aspects of AB X1 26 and the following provides a summary of significant changes. AB 1484 raises multiple significant legal issues and many provisions of AB X1 26 and AB 1484 are ambiguous or contradictory. This Summary does not attempt to address each ambiguity or contradiction, or to provide a discussion of every provision in AB 1484. As more information becomes available, we may supplement this Summary from time to time.

All statutory references in the below summary are to the Health and Safety Code unless otherwise indicated.

## **II. Successor Agency Payment of “Surplus” Tax Revenues**

AB 1484 requires the successor agency to make a “surplus” payment to the county auditor-controller for distribution to the taxing entities by July 12, 2012 if the county auditor-controller sends the successor agency a demand letter by July 9, 2012. Failure to make the surplus payment by July 12th will subject the city and the successor agency to substantial civil penalties and other severe sanctions.

### **A. New Obligation regarding a Surplus Payment**

Because of delays caused by the *Matosantos* case, many county auditor-controllers did not make a distribution of property taxes on January 16, 2012 for the ROPS 1 period (January 1, 2012 through June 30, 2012). For such counties, this means that no surplus revenues were distributed to the taxing entities for the ROPS 1 period pursuant to subdivision 4 of the Section 34183(a) waterfall (i.e., the amount left over after payment of pass through obligations, the enforceable obligations, and the administrative cost allowance). To correct for this, AB 1484 directs that a corresponding deduction should have been made with respect to the June 1, 2012 distribution of property tax revenues for the ROPS 2 period (July 1, 2012 through December 31, 2012) to account for any unpaid surplus from the ROPS 1 period. (Section 34183.5(b))

Because AB 1484 was not law at the time of June 1, 2012 distribution, county auditor-controllers may not have made the deduction required by AB 1484. Therefore, if the county auditor-controller made the June 1st distribution without making the required deduction and the taxing entities are owed the surplus amount, AB 1484 directs the county auditor-controller to calculate the amount owed by the successor agency and to send the successor agency a demand for payment no later than July 9, 2012. (Section 34183.5(b)(2)(A))

No later than July 12, 2012, each successor agency which receives such a demand, must pay to the county auditor-controller the amount demanded. (Section 34183.5(b)(2)(A)) The county auditor-controller will deposit the amounts into the Real Property Tax Trust Fund (“RPTTF”) and release the funds to all the affected taxing entities in the manner prescribed by Section 34188

(i.e., according to their percentage tax shares) no later than July 16, 2012. (Section 34183.5(b)(2)(A))

To the extent the county auditor-controller receives after July 16, 2012 any funds it demanded from a successor agency, the county auditor-controller must allocate those funds to affected taxing entities within five business days of receipt. (Section 34183.5(b)(2)(A))

The new law appears to excuse from all these procedures and deadlines a successor agency which did not receive any June 1, 2012 allocation.

### **B. Penalties for Successor Agency and City**

If a successor agency fails to pay the surplus amount demanded by the county auditor-controller on or before July 12, 2012, the DOF or any affected taxing entity may file a lawsuit seeking to compel the successor agency to make the payment immediately. The lawsuit has priority over all other civil matters, so the court may act very quickly. (Section 34183.5(b)(2)(C))

The successor agency will be subject to a civil penalty of 10% of the amount it owes to taxing entities plus 1.5% of the amount owed, imposed for each month the payment is late. (Section 34183.5(b)(2)(C))

The successor agency shall not pay any obligations other than bond debt service until the payment is made. (Section 34183.5(b)(2)(C))

Although not entirely clear, it appears that the successor agency's subsequent property tax allocations for payment of enforceable obligations on its ROPS are also subject to set off until the surplus payment (and possibly any civil penalties imposed) are paid in full. (Section 34183.5(b)(3))

The DOF may request that a court waive some or all of the civil penalties if the DOF determines that imposition of the penalties will jeopardize the payment of enforceable obligations. (Section 34183.5(b)(2)(C))

The city will also be subject to the same civil penalty as the successor agency for late or non-payment of the surplus payment demanded. (Section 34183.5(b)(2)(C)) Because AB 1484 elsewhere recognizes that successor agencies are separate legal entities from the city, there may be arguments that this aspect of the penalty provision is unconstitutional.

In addition, the city shall not receive the sales and use taxes scheduled to be distributed to it on July 18, 2012, or thereafter. (Section 34183.5(b)(2)(C)) Sales and use taxes shall be withheld in the amount of the surplus payment demanded until such time as the demanded payment is made by the successor agency to the county auditor-controller. (Section 34183.5(b)(2)(C))

A county auditor-controller who fails to comply with the July 9th deadline to demand the surplus payment from successor agencies may be subject to legal action and the employer county will face mandatory financial penalties. (Section 34183.5(b)(2)(B))

### **III. Recognized Obligation Payment Schedules**

AB 1484 impacts the preparation of the Recognized Obligation Payment Schedule (the “ROPS”). Specifically, AB 1484 creates new obligations and new deadlines. As discussed below, an oversight board-approved ROPS 3 (for the period January 1, 2013 through June 30, 2013) must be submitted to the DOF and the county auditor-controller by September 1, 2012. Therefore, we recommend that the successor agency submit ROPS 3 to the oversight board as soon as possible. In addition, if the oversight board has not approved ROPS 3 by September 1st, we recommend that the successor agency submit the unapproved ROPS to the DOF and the county auditor-controller, with a notation regarding the status of the oversight board’s review of the ROPS.

#### **A. New ROPS Requirements and Deadlines for the Successor Agency and the Oversight Board**

AB X1 26 does not provide comprehensive deadlines for the preparation, submittal, and review of the ROPS. Beginning with the ROPS 3, AB 1484 imposes new requirements and deadlines.

The successor agency must now complete each ROPS in the manner provided for by the DOF. As before, the successor agency must submit the ROPS to the oversight board for approval. AB 1484 does not specify a deadline for the successor agency to submit the ROPS to the oversight board for approval. However, AB 1484 requires that an oversight board-approved ROPS 3 must be submitted to the DOF and the county auditor-controller by September 1, 2012. For all subsequent ROPS, the successor agency must submit the oversight board-approved ROPS to the DOF and the county auditor-controller by no later than 90 days before the next property tax distribution (each January 2nd and June 1st). (Section 34177(m))

At the same time it submits the ROPS to the oversight board for approval, the successor agency must submit a copy of the ROPS to the county administrative officer, the county auditor-controller, and the DOF. (Section 34177(l)(2)(B))

The oversight board must approve the ROPS by resolution as AB 1484 requires that all actions of the oversight board must now be by resolution. Section 34179(e))

The successor agency must submit the oversight board-approved ROPS (not just a letter or message stating that the oversight board has approved the ROPS) electronically to the DOF. In addition, AB 1484 provides that written notice and information about all actions taken by an oversight board must be provided to the DOF electronically in a manner of the DOF’s choosing. (Section 34177(m) and Section 34179(h))

#### **B. Review by the DOF**

The DOF may review actions of an oversight board. Such actions will become effective 5 business days after appropriate notice is provided to the DOF, unless the DOF requests a review. If the DOF requests a review of the ROPS, the DOF will have 45 days from the submittal of the

ROPS (not from the date of a request to review) to make its determination of the enforceable obligations and the amounts and funding sources for the enforceable obligations. The DOF may eliminate or modify any item on the ROPS prior to its approval. The county auditor-controller must reflect the actions of the DOF in determining the amount of property tax revenues to allocate to the successor agency. (Section 34177(m) and Section 34179(h))

The DOF must provide notice to the successor agency and the county auditor-controller as to the reasons for its actions. If the oversight board continues to dispute a determination by the DOF, one or more future ROPS may reflect a resolution of that dispute. The DOF may also agree to an amendment to the ROPS to reflect a resolution of a disputed item. However, such amendment will not affect a past allocation of property tax or create a liability for any affected taxing entity. In other words, the successor agency will not be able to “claw back” revenues from the taxing entities to make up for missed payments if the DOF disallows an item on a ROPS but later agrees to an amendment allowing that item. (Section 34177(m) and Section 34179 (h))

The successor agency may request additional review by the DOF and an opportunity to meet and confer on disputed items within 5 business days of the DOF’s determination. The meet and confer period may vary and the successor agency’s untimely submittal of a ROPS may result in a meet and confer period of less than 30 days. At least 15 days before the date of a property tax distribution, the DOF must notify the successor agency and the county auditor-controller about the outcome of its review. (Section 34177 (m))

### **C. New County Auditor-Controller Review**

Under AB 1484, the county auditor-controller may now review a ROPS, object to any items that are not demonstrated to be enforceable obligations, and object to the funding sources proposed for any items. The county auditor-controller’s review may occur before or after the successor agency submits the ROPS to the oversight board. The county auditor-controller must notify the successor agency, the oversight board, and the DOF of its objections by no later than 60 days before the date of the next property tax distribution (each January 2nd and June 1st), except that objections to ROPS 3 must be submitted by October 1, 2012. If the oversight board disputes the county auditor-controller’s finding, it may refer the matter to the DOF for a determination of what will be approved for inclusion on the ROPS. (Section 34182.5)

### **D. Penalties**

If the successor agency does not submit a ROPS by the applicable deadline, the city will be subject to a civil penalty of \$10,000 per day for every day that the ROPS is not submitted to the DOF. The penalty is to be paid to the county auditor-controller for distribution to the taxing entities. If a successor agency does not timely submit the ROPS, creditors of the successor agency, the DOF, and affected taxing entities have standing to and may request a writ of mandate to require the successor agency to immediately perform this duty. (Section 34177(m)(2))

Additionally, if the successor agency does not submit the ROPS within 10 days of an applicable deadline, the successor agency's administrative cost allowance for that period will be reduced by 25%. (Section 34177(m)(2))

If the successor agency fails to submit an oversight board-approved ROPS to the DOF within 5 business days of the date upon which the ROPS is to be used to determine the amount of property tax allocations, the DOF may determine if any amount should be withheld by the county auditor-controller for payments for enforceable obligations, pending DOF approval of a ROPS (rather than the county auditor-controller disbursing that amount to the taxing entities). If the DOF gives written notice to the county auditor-controller that a portion of any of the withheld sums are in excess of the amount needed to pay enforceable obligations, then the county auditor-controller must distribute any such amount to the taxing entities. (Section 34177(m)(3))

The county auditor-controller must distribute withheld funds to the successor agency only in accordance with a ROPS approved by the DOF. The county auditor-controller lacks the authority to withhold any other amounts from the allocation of property taxes unless required by court order. (Section 34177 (m)(3))

The above penalties are for the failure of the successor agency to timely submit an oversight-board approved ROPS to the DOF. However, absent a court order, the successor agency cannot compel the oversight board to approve the ROPS or to take timely action on a ROPS. To facilitate the oversight board's timely review, we strongly recommend that the successor agency submit ROPS 3 to the oversight board as soon as possible, and no later than early August. If the oversight board has not approved ROPS 3 by September 1st, we recommend that the successor agency submit the unapproved ROPS to the DOF and the county auditor-controller, with a notation regarding the status of the oversight board's review of the ROPS.

#### **IV. Reduced Tax Revenues to Successor Agencies with Remaining 2011-12 Pass Through Obligations**

AB 1484 requires a reduction in a successor agency's January 2, 2013 property tax allocation if neither the redevelopment agency nor the successor agency paid in full the pass through payments owed to the taxing agencies for fiscal year 2011-12. As discussed below, from the county auditor-controller's October 1, 2012 estimate of the January 2, 2013 property tax allocations, the successor agency should know whether the county auditor-controller has determined that the successor agency owes pass through payments for fiscal year 2011-12.

##### **A. Unpaid or Underpaid Pass Through Payments for Fiscal Year 2011-2012**

Because of delays caused by the *Matosantos* case, it was unclear whether the successor agency or the county auditor-controller was responsible for making statutory and contractual pass through payments through the end of fiscal year 2011-12. AB 1484 adds Section 34183.5 which addresses unpaid or underpaid fiscal year 2011-12 pass through payments.

If the redevelopment agency or the successor agency did not make any portion of a pass through payment owed to a taxing entity for fiscal year 2011-12, and the county auditor-controller did not pay such portion, the county-auditor controller will deduct the amount of delinquent pass through payments from the successor agency's January 2, 2013 allocation of property tax. The deduction is to be made from the amount the successor agency would otherwise be entitled to receive for payment of its enforceable obligations under Section 34183(a)(2). (Section 34183.5(a)(1))

Because the deduction is to be made from the amount available to pay enforceable obligations, it appears that the delinquent pass throughs are given a higher priority than other enforceable obligations. That is, the county auditor-controller will deduct the delinquent pass throughs even if the successor agency's allocation is not sufficient to satisfy all enforceable obligations. However, as discussed in the next paragraph, the deduction is subject to the existing provisions in Section 34183(b) regarding the subordination of pass through payments. (Section 34183.5(a)(1))

The county auditor-controller must notify the successor agency and the affected taxing entities by no later than October 1, 2012 of (1) the estimated amount of property taxes to be allocated and distributed on January 2, 2013, and (2) the amount of pass through payments to be made in the January 1, 2013 to June 30, 2013 fiscal period. (Section 34182(c)(3)) Based on this estimate, the successor agency must notify the county auditor-controller on or before December 1, 2012 if it will not be able to pay all its enforceable obligations for this fiscal period from its January 2 nd allocation and any other available funds. (Section 34183(b))

If the county auditor-controller and State Controller confirm this inability to pay, the amount of the shortfall will first be deducted from the amount that would otherwise be distributed to the taxing entities as surplus and then from the successor agency's administrative cost allowance. If these amounts are exhausted, then the county auditor-controller will determine whether any of the pass through payments were subordinated to debt service payments on bonds. If so, the amount needed to pay debt service on the bonds may be deducted from the amount that would otherwise be used to pay the delinquent fiscal year 2011-12 pass through payments. (Section 34183.5(a)(1) and Section 34183(b))

If there are insufficient available revenues from the January 2, 2013 allocation to pay in full the delinquent pass through payments, the county auditor-controller will reduce allocations to the successor agency for enforceable obligations under Section 34183(a)(2) on a go forward basis (each subsequent June 1st and January 2nd) until the amount owed for the delinquent pass through payments is satisfied. Alternatively, the county auditor-controller may accept payment from the successor agency's reserve funds. (Section 34183.5(a)(1))

If the redevelopment agency did not pay any portion of the pass through payments owed for the 2011-12 fiscal year but the county auditor-controller did pay that portion, the county auditor-controller will deduct that portion from the successor agency's January 2, 2013 allocation of property tax. The deduction is to be made from the amount the successor agency would otherwise be entitled to receive for payment of its enforceable obligations under Section 34183(a)(2). The amount deducted cannot exceed one-half of the pass through payments owed

for fiscal year 2011-12. If the amount of the January 2, 2013 allocation is not sufficient to make the required deduction, the county auditor-controller will continue to reduce future allocations to the successor agency for its enforceable obligations until the amount is fully deducted. Alternatively, the county auditor-controller may accept payment from the successor agency's reserve funds. (Section 34183.5(a)(2))

Section 34183.5(a)(2) does not make the pass through deduction subject to the subordination provisions of Sections 34183(b). However, Section 34183.5(a)(2) provides that the amounts deducted from the successor agency's allocation are available for the purposes of Section 34183(a) (2) through (4) for the six month period for which the allocation are made. Subdivision (a)(2) provides for the payment of current pass through amounts, subdivision (a)(3) provides for the payment of enforceable obligations, and subdivision(a)(4) governs the distribution of surplus revenues to the taxing entities. (Section 34183.5(a)(2))

The provisions of Section 34183.5 are not entirely clear and it remains to be seen how various county auditor-controllers interpret and implement its requirements.

## **V. Housing Assets and Obligations, Funds in the LMIH Fund, and Use of Housing Bond Proceeds**

AB 1484 impacts housing assets, obligations, funds in the Low and Moderate Income Housing Fund (the "LMIH Fund") and unspent housing bond proceeds.

### **A. Preparation of Housing Assets List**

AB X1 26 provides for the successor agency to transfer housing assets to the entity assuming the housing functions of the former redevelopment agency pursuant to Section 34176 (the city, the city housing authority, or the county housing authority). AB X1 26 does not define what constitutes a housing asset. AB 1484 provides a definition of housing assets, and requires the preparation of a housing assets list by August 1, 2012.

AB 1484 is somewhat ambiguous with respect to what entity is required to prepare the housing assets list. AB 1484 imposes the requirement on the "entity assuming the housing functions of the former redevelopment agency." (Section 34176(a)(2)) This provision immediately follows the existing provision in Section 34176 that allows the city to elect to retain the housing functions. It thus appears that the Legislature intended that the city prepare the housing assets list, even if the city did not elect to become the housing successor. This reading makes sense because a county housing authority that is designated as the housing successor would lack the information needed to prepare the list. If the successor to your former redevelopment agency's housing functions is the county housing authority, we recommend that the city coordinate with the county housing authority to compile and submit the housing assets list.

The housing assets list must be submitted to the DOF by August 1, 2012, and must be prepared using the DOF's format. The list must include any asset transferred between February 1, 2012 and the date the list is created. (Section 34176(a)(2))

AB 1484 defines housing assets by reference to criteria. The housing asset list must explain how each asset meets one of the following criteria:

1. any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low and moderate income housing purposes, either by purchase or through a loan, with any source of funds;
2. any funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing as defined in the Community Redevelopment Law (the “CRL”) unless required in the bond covenants to be used for repayment purposes of the bond;
3. any loan or grant receivable, funded from the Low and Moderate Income Housing Fund (the “LMIH Fund”), from homeowners, homebuyers, nonprofit or for profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the CRL;
4. any funds derived from rents or operation of properties acquired for low and moderate income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits;
5. a stream of rents or other payments from housing tenants or operators of low and moderate income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low and moderate income housing; or
6. repayments of loans from the LMIH Fund (e.g., a loan used to make a SERAF payment) or LMIH Fund deposits which had been deferred as of the effective date of AB X1 26.

(Section 34171(d)(1)(G), Section 34176(a)(2), and Section 34176(e))

#### **B. DOF Review of the Housing Assets List; Claw Backs**

The DOF will have 30 days from the date of receipt of the housing assets list to object to any of the assets or transfers of assets identified on the list. If the DOF raises any objections, the entity assuming the housing functions of the former redevelopment agency (again, this reference is somewhat ambiguous) may request a meet and confer process within 5 business days. AB 1484

does not provide any details with respect to this process. (Section 34176 (a)(2)) If the DOF raises any objections, we recommend the city consider requesting a meet and confer even if the successor to your former redevelopment agency’s housing functions is the county housing authority.

If the successor agency previously transferred an asset deemed not to be a housing asset, the asset must be returned to the successor agency. The State Controller (to the extent not prohibited by state and federal law) may order a public agency to return an “available” asset to the successor agency. While AB 1484 does not specify what an “available” asset is, it may mean that the public agency has not committed to a third party for the expenditure or encumbrance of the asset, which is the test set forth in Section 34167.5 regarding asset transfers by the redevelopment agency. (Section 34176 (a)(2) and Section 34178.8)

### **C. Funds in the Low and Moderate Income Housing Fund**

AB 1484 clarifies that unencumbered amounts on deposit in the LMIH Fund are not to be transferred to the entity assuming the housing functions of the former redevelopment agency (the “housing successor”), and are instead to be transferred to the county auditor-controller for distribution to the taxing entities. (Section 34176(a)(1) and Section 34177(d))

Proceeds of bonds issued to finance affordable housing projects and payable from the former 20% set-aside might be on deposit in the LMIH Fund. If such proceeds are not encumbered pursuant to an agreement existing as of the effective date of AB X1 26, it appears that Sections 34176(a)(1) and 34177(d) would require the proceeds to be transferred to the county auditor-controller for distribution to the taxing entities. However, notwithstanding these provisions, AB 1484 authorizes the housing successor or the successor agency to expend housing bonds proceeds provided the bonds were issued prior to January 1, 2011, as discussed below. While AB 1484 does not contain similar authority with respect to housing bonds issued after January 1, 2011, arguments exist under AB X1 26 that the proceeds of such bonds can be used for the purposes for which the bonds were sold unless the purposes can no longer be achieved, in which case the proceeds may be used to defease the bonds. In any event, neither the housing successor nor the successor agency should transfer the proceeds of tax-exempt bonds to the county auditor-controller for distribution to the taxing entities without taking appropriate steps to ensure that the taxing entities will comply with federal tax laws.

### **D. Retention of Housing Obligations and Assets by the Successor Agency**

While Section 34176 generally provides that housing obligations transfer to the housing successor, AB 1484 amends Section 34176 to recognize that the successor agency may retain enforceable obligations. Presumably, the obligations retained are those that require ongoing funding and are therefore listed on the ROPS as enforceable obligations. AB 1484 provides that if the redevelopment agency pledged a housing asset (such as a loan receivable or a stream of rents) to pay for bonded indebtedness, the successor agency must maintain control of the asset in order to pay for the debt. AB 1484 is not clear regarding the successor agency’s retention of a

housing asset when the redevelopment agency pledged the asset to pay for indebtedness not evidenced by bonds. (Section 34176(a)(1) and (a)(2))

#### **E. Transfer of Housing Assets to the Housing Successor**

The successor agency is required to effectuate the transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176 and the oversight board is required to direct the successor agency to transfer housing assets pursuant to Section 34176. (Section 34177(g) and Section 34181 (c))

The oversight board's direction to transfer housing assets must be pursuant to a resolution adopted after providing at least 10 days' notice to the public of the oversight board's specific proposed action. Although AB 1484 does not so provide, it may be advisable for the oversight board to take its action only after the DOF has completed its review of the housing assets list. (Section 34176(f))

Written notice and information about all actions taken by the oversight board must be provided to the DOF electronically in a manner of the DOF's choosing. The oversight board's direction to transfer the housing assets is subject to review by the DOF and the action will become effective five business days (as opposed to three business days under AB X1 26) after appropriate notice is provided to the DOF unless the DOF requests a review. The DOF may extend its review period by up to 60 days. If the DOF does not object to the oversight board's action and no legal action challenging the oversight board's action is commenced within 60 days of the oversight board's action, the oversight board's action will be considered final and can be relied upon as conclusive. (Section 34179(h) and 34181(f))

If a development includes both a housing asset and another type of use such as a commercial use or open space, the oversight board must consider the overall value to the community and the benefit to the taxing agencies of keeping the entire development intact or dividing title and control over the property between the housing successor and the successor agency or other public or private agencies. It is unclear how such a division would be accomplished. The disposition of mixed use assets may be accomplished by a revenue-sharing agreement approved by the oversight board on behalf of the taxing entities. (Section 34176(f))

#### **F. Low and Moderate Income Housing Asset Fund**

The housing successor must maintain a separate Low and Moderate Income Housing Asset Fund (the "LMIH Asset Fund"). Funds transferred to the housing successor as well as funds generated from housing assets must be deposited in the LMIH Asset Fund and used in accordance with the applicable housing-related provisions of the Community Redevelopment Law ("CRL"). At a minimum, this appears to mean that the housing successor must use moneys in the LMIH Asset Fund for the purpose of improving, increasing, or preserving the city's supply of low and moderate income housing available at affordable housing cost (as defined in the CRL), to persons and families of low or moderate income, lower income households, and extremely low income households (all as defined in the CRL). (Section 34171(d) and Section 34176(d)) It is

not clear whether other housing-related provisions of the CRL, such as income targeting requirements and replacement housing requirements, are applicable.

### **G. Repayment of LMIH Fund Loans or Deferrals**

The definition of enforceable obligations includes amounts borrowed from, or payments owing to, the LMIH Fund. The repayments of LMIH Fund loans or deferrals constitute housing assets to be deposited in the LMIH Asset Fund. The repayment schedule must be approved by the oversight board and repayments cannot commence until fiscal year 2013-14. (Section 34171(d)(1)(G), Section 34176(d) and Section 34176(e)(6)(A) and (B))

The repayment of LMIH Fund loans or deferrals requires consideration of city loans that are governed by the provisions of Section 34191.4 following the successor agency's receipt of a finding of completion from the DOF ("recognized city loans") (see Section VII of this Summary). The maximum repayment amount on the LMIH Fund loans or deferrals in any fiscal year, when combined with the repayment of recognized city loans, is equal to one-half of the increase between the amount distributed to taxing entities as surplus in that fiscal year and the amount distributed to taxing entities as surplus in the 2012-13 base year (presumably fiscal, and not calendar year 2012-13). (Section 34171(G) and Section 34176(B))

Repayments of LMIH Fund loans and deferrals will take priority over repayments of the recognized city loans. (Section 34191.4(b)(2)(A))

The city must first use repayments of a recognized city loan to retire any outstanding amounts borrowed from and owed to the LMIH Fund for the purpose of making the SERAF payment, and those amounts must be deposited in the housing successor's LMIH Asset Fund. (Section 34191.4(b)(2)(B))

Twenty percent of any repayment of a recognized city loan must be deducted from the loan repayment amount and be transferred to the housing successor's LMIH Asset Fund after all outstanding loans from the LMIH Fund for purposes of SERAF have been paid. (Section 34191.4(B)(2)(C))

### **H. Housing Bonds Proceeds**

AB 1484 gives "the entity assuming the housing functions pursuant to [Section 34176]" certain powers with respect to the use of bond proceeds. While this term is ambiguous with respect to AB 1484's designation of the entity required to prepare the housing assets list, the term appears to refer to the housing successor (i.e., the city, local housing authority, or county housing authority, as the case may be) when used in connection with housing bond proceeds. Our discussion is based on this assumption.

The housing successor may commit the proceeds of bonds issued to third-party investors or bondholders prior to January 1, 2011 if the bonds were issued for the purposes of affordable housing and were backed by the LMIH Fund. The housing successor may commit those

proceeds that remain after the satisfaction of enforceable obligations that have been approved on a ROPS. The enforceable obligations may be satisfied by creating reserves for the bond-financed projects or by expending funds to complete the projects. (Section 34171(e) and Section 34176(g)(1)(A))

The housing successor must provide notice to the successor agency of any commitments of bond proceeds that it wishes to make at least 20 days before the successor agency's deadline for submitting the ROPS to the oversight board. (AB X1 26, as amended by AB 1484, does not contain a deadline for submitting a ROPS to the oversight board for approval; instead there is a deadline for submitting an oversight board-approved ROPS to the DOF.). Commitments will not be valid until they are included in an approved and valid ROPS. However, review of the commitments by the successor agency, oversight board, and the DOF will be limited to a determination that the commitments are consistent with the bond covenants and that there are sufficient funds available. (Section 34176(g)(1)(B))

If the housing bonds are tax-exempt, the successor agency must ensure that the housing successor complies with federal tax laws. To fulfill this requirement, we recommend that the successor agency require the housing successor to execute an appropriate agreement before the successor agency transfers any bond proceeds to the housing successor.

AB 1484 provides that, notwithstanding any other law, the successor agency must retain and expend the excess housing bond proceeds at the discretion of the housing successor provided it ensures that the proceeds are expended in a manner consistent with the bond covenants, including those related to the tax status of the bonds. The amount expended must not exceed the amount of bond proceeds available and such expenditure will constitute the creation of "excess housing proceeds expenditures" to be paid from the excess proceeds. Excess housing proceeds expenditures must be listed separately on the ROPS. AB 1484 does not limit the review of the oversight board or the DOF to a determination that the expenditures are consistent with the bond covenants and that there are sufficient funds, as is the case with the expenditure of bond funds by the housing successor. (Section 34176(g)(1)(B)(2))

AB 1484 does not specifically address the expenditure of proceeds of housing bonds issued after January 1, 2011. In the absence of a pre-existing contract, the ability to spend the proceeds on projects is unclear under the provisions of AB X1 26 and AB 1484. As stated above, arguments exist under AB X1 26 that the proceeds of such bonds can be used for the purposes for which the bonds were sold unless the purposes can no longer be achieved, in which case the proceeds may be used to defease the bonds. In any event, the successor agency should not transfer any proceeds of tax-exempt bonds unless it takes appropriate steps to ensure that the transferee will comply with federal tax laws.

## **VI. Due Diligence Reviews and Remittance of Unobligated Balances**

AB 1484 requires the successor agency to conduct due diligence reviews to identify "unobligated balances" to be remitted to the county auditor-controller for distribution to the taxing entities.

The review of the Low and Moderate Income Housing Fund must be completed by October 1, 2012 and the review of non housing funds must be completed by December 15, 2012.

As discussed below, the methodology for determining the amount of the unobligated balances may have significant implications with respect to property and cash previously transferred by the redevelopment agency or successor agency to the city and it may be advisable for the city to transfer property back to the successor agency prior to the commencement of the due diligence reviews.

#### **A. Purpose of Due Diligence Reviews**

Section 34177(d) requires the successor agency to remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, but does not specify how to calculate the unencumbered balances or a deadline for remitting the funds. AB 1484 adds Section 34179.5 for the purpose of implementing Section 34177(d).

Section 34179.5 requires the successor agency to employ a licensed accountant to conduct due diligence reviews to determine the “unobligated balances” available for transfer to the taxing entities. The accountant must be approved by the county auditor-controller. Alternatively, an audit provided by the county auditor-controller may be used to comply with Section 34179.5 if the oversight board concurs. (Section 34179.5(a)) AB 1484 does not specify how the cost of the reviews is to be paid for.

#### **B. Deadline for Completing the Due Diligence Reviews**

The due diligence review of the LMIH Fund must be completed by October 1, 2012. The due diligence review with respect to all other fund and account balances must be completed by December 15, 2012. (Section 34179.6(a))

The successor agency must provide the due diligence reviews, and specifically the amount of cash and cash equivalents determined to be available for allocation to the taxing entities (i.e., the unobligated balances), to the oversight board, the county auditor-controller, the State Controller, and the DOF by the deadlines indicated above. The successor agency must submit a copy of the ROPS to the county administrative officer, the county auditor-controller, and the DOF at the same time it submits the due diligence reviews to the oversight board. (Section 34179.6 and Section 34179.6(a))

#### **C. Methodology of the Due Diligence Reviews-- Determining the Unobligated Balances**

Each due diligence review must include certain information using specific definitions for certain terms. In summary, each review must determine the net balance of the fund as of June 30, 2012 by adding and subtracting certain amounts from the total to arrive at the net amount. Items to be subtracted include the following: (1) restricted funds, (2) non cash or cash equivalents (as

defined), (3) amounts that are legally or contractually dedicated or restricted for the funding of an enforceable obligation (as defined), and (4) amounts that are needed to satisfy obligations that will be put on the ROPS for the current fiscal year. Items to be added include the value of assets, cash, and cash equivalents transferred (as defined) after January 1, 2011 through June 30, 2012 by the redevelopment agency or the successor agency to the city, another public agency, or a private person if an enforceable obligation to make that transfer did not exist. (Section 34179.5(c))

AB 1484 creates a rebuttable presumption that cash and cash equivalent balances are available and sufficient for the successor agency to remit the amounts determined by the DOF for disbursement to the taxing entities. If the due diligence review finds that there is insufficient available cash to provide the full amount, this must be demonstrated in an additional itemized schedule. (Section 34179.5(c)(6))

The chart attached as Appendix A to this Summary sets forth the definitions that must be used in conducting the due diligence reviews and sets forth the items, as discussed above, which must be included in the reviews.

As discussed below, the requirement to add to the fund balance the value of assets, cash, and cash equivalents transferred in the absence of an enforceable obligation has important implications.

#### **D. Implications of the Methodology for Calculating Unobligated Fund Balances**

Real Property - The redevelopment agency may have transferred assets, including property, to the city after January 1, 2011 without an enforceable obligation and for no consideration, and the city may not have transferred the assets back to the successor agency. The State Controller previously ordered each city to return the assets transferred to it by the redevelopment agency to the successor agency, but also advised that it would be conducting individual reviews of asset transfers and that if a city had a question as to whether a particular asset must be returned, it could place the asset in a reserve pending the State Controller's review. There did not appear to be any adverse consequences should the city wait until it receives a specific order before returning an asset to the successor agency.

AB1484 now provides that the value of the transferred assets will be added to the fund balance and deemed available for transfer to the taxing entities. Therefore, even in the absence of a specific order from the State Controller, we strongly recommend that the city consider returning available assets to the successor agency as soon as possible and by no later than the date scheduled for the due diligence review to commence. If the city has encumbered an asset and it is no longer subject to the claw back provisions of Section 34167.5, it is possible that the value of the asset may still be added to the fund balance. There is likely no need for a city to transfer back property that the successor agency transferred to the city with oversight board and DOF approval, such as a property used for a governmental purpose. However, it is possible that the value of such property may be added to the fund balance.

Arguably, AB 1484 requires the value of transferred housing assets to be added to the LMIH Fund balance. However, this result seems very unlikely given that other provisions of AB X1 26 and AB 1484 specifically provide for housing assets to be transferred to the successor housing entity without regard to whether there was an enforceable obligation.

Because AB 1484 expands the definition of a “city” the above provisions may also apply with respect to properties transferred by the redevelopment agency to a nonprofit corporation.

Cash and Cash Equivalents - AB X1 26 contains two different definitions of enforceable obligations. Section 34167’s definition of enforceable obligations was effective until February 1, 2012. Section 34167 did not exclude loans between the former redevelopment agency and the city from the definition of enforceable obligations. Section 34171’s definition of enforceable obligations became effective on February 1, 2012, and does exclude from the definition of enforceable obligations loans between the former redevelopment agency and the city.

Section 34179.5 provides that the Section 34171 definition of enforceable obligations is to be used in conducting the due diligence reviews, notwithstanding that the review period runs from January 1, 2011. Therefore, it appears that loan repayments made by a redevelopment agency to the city between January 1, 2011 and February 1, 2012 are required to be added to the fund balance for the purpose of determining the amount to be distributed to the taxing entities. If so, the city must return the loan repayments to the successor agency in time for the successor agency to remit the funds to the county auditor-controller by the applicable deadline, or the city will be subject to an offset of its sales and use taxes or its property taxes, as discussed below.

#### **E. Review of Due Diligence Reviews by the Oversight Board**

Upon receipt of a due diligence review and no later than five business days before making a determination of the amount of the unobligated balance available for disbursement to taxing entities, the oversight board must convene a public comment session. The oversight board is required to review, approve, and make its determination in a public session, and it must transmit its determination to the DOF and the county auditor-controller by October 15, 2012 for the LMIH Fund and by January 15, 2013 for non housing funds. (Section 34179.6(b) and Section 34179.6(c))

In making its determination, the oversight board must consider any opinions offered by the county auditor-controller. (Section 34179.6(b)) The oversight board may adjust any amount provided in a due diligence review to reflect additional information and analysis. The oversight board may request the successor agency to provide any materials it deems necessary to assist in its review and determination. (Section 34179.6(c))

Subject to review and approval by the DOF, the oversight board may authorize the successor agency to retain assets or funds identified in Section 34179.5(c)(5)(B), (C), (D), and (E) (see the attached chart for a description of these assets and funds). When it does so, the oversight board must identify to the DOF the amount of funds authorized for retention, the source of those funds, and the purposes for which those funds are being retained. (Section 34179.6(c))

**F. Review of Due Diligence Reviews by the DOF**

The DOF may request any supporting documentation to assist it in reviewing a due diligence review and may specify the form and manner for presenting information to it. (Section 34179.6(a))

The DOF may adjust the oversight board's determination based on the DOF's own analysis and information provided by the successor agency and others. The DOF must consider any findings or opinions of the county auditor-controllers and the State Controller. The DOF must complete its review of the oversight board's determination by November 9, 2012 for the LMIH Fund and by April 1, 2013 for the non housing funds. (Section 34179.6(d))

The DOF must notify the oversight board and the successor agency and provide an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the oversight board. (Section 34179.6(d))

Within five business days of receiving notification from the DOF (and by no later than November 16, 2012 with respect to the LMIH Fund), the successor agency and the city may request to meet and confer with the DOF to resolve any disputes. An explanation and documentation of the basis of the dispute must accompany the request to meet and confer. (Section 34179.6(e))

The DOF must meet and confer with the requesting party and either confirm or modify its determinations within 30 days of the request to meet and confer. (Section 34179.6(e))

**G. Remittance of Unobligated Balances by the Successor Agency**

The successor agency must remit to the county auditor-controller the amount of unobligated balances determined by the DOF within five working days of receiving the initial notification from the DOF or, if there is a meet and confer process, within five working days of receiving a subsequent notification at the conclusion of that process. (Section 34179.6(f))

**H. Penalties and Remedies for Failure to Timely Remit Unobligated Balances**

If the successor agency fails to remit the amount determined by the DOF by the deadline, it is subject to certain penalties and remedies as discussed below.

The successor agency must make a diligent effort to recover any money determined to have been transferred without an enforceable obligation. (Section 34179.6(f)) If the successor agency cannot promptly recover the funds that have been transferred to another public agency without an enforceable obligation, the DOF may order the moneys to be recovered through an offset of the sales and use tax of that public agency. If the DOF does not so order, the county auditor-controller may reduce the property tax allocation to that public agency. (Section 34179.6(h)(1)(A))

The county auditor-controller and the DOF each have the authority to demand the return of funds improperly spent or transferred to a private person or other private entity. If the funds are not repaid within 60 days, they may be recovered through any lawful means of collection and are subject to a ten percent penalty plus interest at the rate charged for late personal income tax payments from the date of the improper payment to the date the money is repaid. (Section 34179.6(h)(1)(B))

If the city is performing the duties of the successor agency, the DOF may order an offset to the city's sales and use tax revenues equal to the amount the successor agency fails to remit. If the DOF does not order an offset, the county auditor-controller may reduce the property tax allocation of the city (arguably this remedy is also only available if the city is performing the duties of the successor agency). (Section 34179.6(h)(1)(C)) In any event, as described above, Section 34179.6(h)(1)(A) provides for an offset to a city's sales tax or property tax allocation if the city received the subject funds whether or not the city serves as the successor agency.

Alternatively, or in addition to the above remedies, the DOF may direct the county auditor-controller to deduct the unpaid amount from future allocations of property tax to the successor agency until paid in full. (Section 34179.6(h)(1)(D)(2)) If the DOF determines that payment of the full amount is not currently feasible or would jeopardize the ability of the successor agency to pay enforceable obligations in a timely manner, it may agree to an installment payment plan. (Section 34179.6(h)(1)(D)(3))

### **I. Finding of Completion**

The DOF will issue to the successor agency a finding of completion of the requirements of Section 34179.5 within five business days of receiving confirmation from the county auditor-controller that the following amounts have been paid in full: (1) the unobligated balances determined by the DOF, as described in this Section VI, (2) any unpaid or underpaid pass through payments owed for fiscal year 2011-12 (see Section IV of this Summary); and (3) any "surplus" payment as set forth in a demand letter of the county auditor-controller by July 9, 2012 (see Section II of this Summary). (Section 34179.7)

Receipt of a finding of completion has important implications with respect to the repayment of city loans (see Section VII of this Summary), the use of unspent bond proceeds (see Section VIII of this Summary), and the disposition of real property (see Section IX of this Summary).

### **VII. Finding of Completion—Repayment of Loans between the Former Redevelopment Agency and the City**

AB 1484 provides for the repayment of loans between the former redevelopment agency and the city following the successor agency's receipt of a finding of completion from DOF.

**A. Status of Loans between the Former Redevelopment Agency and the City  
Absent a Finding of Completion**

The definition of enforceable obligations contained in Section 34171(d), which controls as of February 1, 2012, provides that an enforceable obligation does not include any agreements, contracts, or arrangements between the city and the former redevelopment agency. However, the following agreements may be deemed to be enforceable obligations: (1) a written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations (bonds or other evidence of indebtedness issued by the redevelopment agency or a joint exercise of powers authority created by the redevelopment agency to third party investors or bondholders to finance or refinance redevelopment projects), and solely for the purpose of securing or repaying those indebtedness obligations; and (2) a loan agreement entered into between the redevelopment agency and the city within two years of the date of creation of the redevelopment agency. (Section 34171(d)(2))

Section 34178(a) provides that as of February 1, 2012, agreements, contracts, and arrangements between the city and the former redevelopment agency are invalid and shall not be binding, except that a successor agency wishing to enter or reenter into agreements with the city may do so upon obtaining oversight board approval. However, AB 1484 amends Section 34178(a) to provide that the successor agency and the oversight board may not restore funding for an enforceable obligation that was deleted or reduced by the DOF pursuant to its review of a ROPS, unless it reflects a decision made by the DOF as a result of a meet and confer process or pursuant to a court order.

**B. Status of Loans between the Former Redevelopment Agency and the City  
Following the Issuance of a Finding of Completion**

AB 1484 adds Section 34191.4, providing that notwithstanding Section 34171(d), a successor agency issued a finding of completion may apply to the oversight board to have a loan agreement between the former redevelopment agency and the city deemed an enforceable obligation. The oversight board must make a finding that the loan was for a legitimate redevelopment purpose to grant the application. (Section 34191.4(b)(1))

All actions of the oversight board, including an action to deem a city and redevelopment agency loan an enforceable obligation, must be by resolution. (Section 34179(e))

All actions of the oversight board are subject to review by the DOF. Written notice and information of the oversight board's action to deem a city loan an enforceable obligation must be provided to the DOF electronically in a manner of the DOF's choosing. The oversight board's action will become effective five business days (as opposed to 3 business days under AB X1 26) after appropriate notice is provided to the DOF unless the DOF requests a review.

If the DOF requests a review, the DOF will have 40 days (as opposed to 10 days under AB X1 26) to approve the action or return it to the oversight board for reconsideration, and the oversight board action will not be effective until approved by the DOF. If the DOF returns the action to

the oversight board for reconsideration, the oversight board must resubmit the modified action for DOF approval and the modified oversight board action will not become effective until approved by the DOF. (Section 34179(h))

Section 34191.4 imposes restrictions on the terms and repayment amounts for loan agreements between the former redevelopment agency and city that are deemed enforceable obligations after issuance of a finding of completion. Arguably, the restrictions apply to loans between the former redevelopment agency and city even if the loans were entered into within two years of creation of the redevelopment agency.

### **C. Modified Loan Terms**

If a loan between the former redevelopment agency and the city is deemed to be an enforceable obligation (a “recognized loan”), the accumulated interest on the remaining principal amount of the recognized loan must be recalculated from origination at the interest rate earned by funds deposited into LAIF. (Section 34191.4(b)(2))

The recognized loan must be repaid to the city in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into LAIF. (Section 34191.4(b)(2))

The annual loan repayments on a recognized city loan cannot commence until fiscal year 2013-14 and the annual loan repayments provided for in the ROPS are subject to the limitations described below. (Section 34191.4(b)(2)(A))

The maximum repayment amount on recognized city loans for any fiscal year must take into account the repayment amounts for loans or deferrals from the LMIH Fund. Amounts borrowed from, or payments owing to the LMIH Fund are enforceable obligations, and the repayments constitute housing assets that must be transferred to the Low and Moderate Income Housing Asset Fund of the entity assuming the housing functions of the former redevelopment agency (the “housing successor”).

The maximum repayment amount on recognized city loans in any fiscal year, when combined with the repayment amount for LMIH Fund loans or deferrals, is equal to one-half of the increase between the amount distributed to taxing entities as surplus in that fiscal year (per subdivision 4 of the Section 34183(a) waterfall) and the amount distributed to taxing entities as surplus in the 2012-13 base year (presumably fiscal, and not calendar year 2012-13). (Section 34191.4(b)(2)(A), Section 34171(d)(1)(G), and Section 34176(e)(6)) (see Section V.H. of this Summary)

Repayments of the LMIH Fund loans and deferrals will take priority over repayments of the recognized city loans. (Section 34191.4(b)(2)(A))

The city must first use repayments of a recognized city loan to retire any outstanding amounts borrowed from and owed to the LMIH Fund for the purpose of making the SERAF payment, and

these amounts must be deposited in the Low and Moderate Income Housing Asset Fund of the housing successor. (Section 34191.4(b)(2)(B))

Twenty percent of any repayment of a recognized city loan must be deducted from the loan repayment amount and transferred to the LMIH Asset Fund of the housing successor after all outstanding loans from the LMIH Fund for purposes of SERAF have been paid. (Section 34191.4(B)(2)(C))

### **VIII. Finding of Completion—Use of Bond Proceeds**

AB 1484 adds Section 34177.3. This section provides that the successor agency lacks the authority to, and must not, create new enforceable obligations or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011 or an enforceable obligation created to conduct the work of winding down the redevelopment agency. (Section 34177.3(a) and (b))

However, AB 1484 also adds Section 34191.4(c), which applies upon the receipt of a finding of completion. Section 34191.4(c) states that the proceeds of bonds issued on or before December 31, 2010 must be used for the purposes for which the bonds were sold. Section 34191.4(c)(2) provides that, notwithstanding Section 34177.3 or any other conflicting provision of law, pre-2011 bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations must thereafter be expended in a manner consistent with the original bond covenants. Enforceable obligations may be satisfied by the creation of reserves for the subject projects or by expending funds to complete the projects. (Section 34191.4(c)(1) and Section 34191(c)(2)(A))

An expenditure of pre-2011 bond proceeds constitutes the creation of “excess bond proceeds obligations.” Excess bond proceeds obligations must be listed separately on the ROPS. Therefore, notwithstanding the directive in Section 34191.4(c) that pre-2011 bond proceeds must be used for the purposes for which the bonds were sold, the requirement to include the excess bond proceeds obligations on the ROPS means the expenditures are subject to review and approval by the oversight board and the DOF (see Section III of this Summary). (Section 34191.4(c)(2)(A))

If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants, the proceeds must be used to defease the bonds or to purchase the bonds on the open market for cancellation. (Section 34191.4(c)(2)(B))

Arguably, none of the above provisions apply to the proceeds of bonds issued to finance affordable housing projects that were payable from moneys on deposit in the former redevelopment agency’s LMIH Fund. This is because separate provisions of AB 1484 address the expenditure of housing bond proceeds (see Section V.H. of this Summary).

Section 34191.4 does not address any issues that may arise with respect to contracting for the work to be financed with the pre-2011 bond proceeds or the ownership of the property or assets financed with such proceeds.

Neither Section 34191.4 nor any other provisions of AB 1484 specifically address the expenditure of bonds issued after January 1, 2011. In the absence of a pre-existing contract, the ability to spend such proceeds on projects is unclear under the provisions of AB X1 26 and AB 1484. Arguments exist under AB X1 26 that proceeds of such bonds can be used for the purposes for which the bonds were sold unless the purposes can no longer be achieved, in which case the proceeds may be used to defease the bonds. In any event, the successor agency should not transfer proceeds of any tax-exempt bonds unless it takes appropriate steps to ensure that the transferee will comply with federal tax laws.

## **IX. Real Property Disposition**

AB 1484 impacts the disposition of real property, other than housing assets, by the successor agency.

### **A. Asset Transfers and Claw backs**

Section 34167.5 continues to govern asset transfers that occurred after January 1, 2011 between the former redevelopment agency and the city or another public agency. However, AB 1484 adds Section 34167.10, which expands the definition of a “city” to include any reporting entity of the city for purposes of its comprehensive annual financial report or similar report; any component unit of the city; and any entity which is controlled by the city or for which the city is financially responsible or accountable.

Section 34167.10 also lists six factors to be considered in determining whether an entity is controlled by the city, such as whether the city and the entity share common or overlapping governing boards or coterminous boundaries. Section 34167.10 states that it is irrelevant whether the entity was created as a separate legal entity or a nonprofit corporation. Section 34167.10 states that its provisions are declarative of existing law and that the entities described in Section 34167.10 are and were intended to be included within the requirements of AB X1 26.

AB 1484 also adds Section 34178.8. This section provides that the State Controller must determine if an asset transfer occurred after January 31, 2012 between the successor agency and the city or any other public agency that was not made pursuant to an enforceable obligation on an approved and valid ROPS. If such an asset transfer occurred, the State Controller must, to the extent not prohibited by state or federal law, order the “available” asset to be returned to the successor agency. Upon receiving such an order, the affected agency must reverse the transfer and return the asset to the successor agency as soon as practicable. While Section 34178.8 does not specify what an “available” asset is, it may mean an asset an agency received that has not been committed to a third party for the expenditure or encumbrance of the asset. That test is the test set forth in Section 34167.5 regarding asset transfers by the former redevelopment agency. (Section 34178.8)

AB 1484 adds Section 34177.3. This section provides that the successor agency lacks the authority to, and shall not, create new enforceable obligations under the authority of the CRL (except for enforceable obligations to conduct the work of winding down the redevelopment

agency) or begin new redevelopment work except in compliance with an enforceable obligation that existed prior to June 28, 2011.

In addition, Section 34177.3 provides that the successor agency lacks the authority to, and shall not, transfer any powers or revenues of the successor agency to any other public or private party except pursuant to an enforceable obligation on a ROPS approved by the DOF. Any transfer that does not comply is void and the successor agency must take action to reverse the transfer. The State Controller may audit any transfer of authority or revenues prohibited by Section 34177.3 and may order the prompt return of any money or other things of value from the receiving party.

### **B. Assets and Property Subject to Disposition**

Section 34181(a) generally requires the successor agency to dispose of assets and property of the former redevelopment agency. AB 1484 amends this section to delete the provision that assets and property subject to disposition are those that were funded with tax increment revenues of the former redevelopment agency. Thus, assets and property are subject to disposition whether or not the redevelopment agency used tax increment revenues to acquire the property or finance the asset.

In addition, AB 1484 amends Section 34181(a) to provide that the disposition of assets may be accomplished by distributing income from a property managed by a public or private agency to the taxing entities in proportion to their property tax shares.

The disposition of property that was acquired with the proceeds of tax-exempt bonds requires special consideration. Each situation must be analyzed to ensure that the disposition does not cause the bonds to become taxable.

The disposition of property that was acquired after January 1, 2007 in anticipation of the adoption of a resolution of necessity or following adoption of such a resolution (“property acquired by eminent domain”) requires special consideration, including in connection with a successor agency’s long-range property management plan (discussed below), because the California Eminent Domain Law imposes certain restrictions on the disposition of property acquired by eminent domain unless it is put to the public use for which it was acquired within ten years of that acquisition. Situations involving property acquired by eminent domain must be individually analyzed to ensure that disposition of such property under AB X1 26 and AB 1484 does not conflict with the requirements of the California Eminent Domain Law.

### **C. Governmentally Used Properties**

Section 34181(a) provides that the oversight board may direct the successor agency to transfer to the appropriate public jurisdiction ownership of assets that were constructed and used for a governmental purpose. Section 34181(a) contains a nonexclusive list of assets deemed to be in governmental use. AB 1484 amends Section 34181(a) to expand the nonexclusive list to include police stations, libraries, and local agency administrative buildings.

**D. Establishing the Value of Properties to be Retained by the City**

Section 34180(f) provides that if a city wishes to retain any property for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities for the value of the retained property. AB 1484 amends Section 34180(f)(2) to provide that if no other agreement is reached on the valuation of the retained property, the value will be the fair market value as of the 2011 property tax lien date as determined by an independent appraiser approved by the oversight board (instead of the county assessor establishing the value).

**E. Disposition Process**

Section 34181(a) provides that the oversight board shall direct the successor agency to dispose of assets and properties (subject to the oversight board directing the successor agency to transfer governmentally used assets to the appropriate public agency). AB 1484 now requires the oversight board to take all actions by resolution. A resolution directing the successor agency to dispose of property must be adopted by the oversight board at a public meeting held after providing at least ten days' notice to the public of the oversight board's specific proposed action. (Section 34179(e) and Section 34181(f))

Written notice and information about all actions taken by the oversight board must be provided to the DOF electronically in a manner of the DOF's choosing. The oversight board's direction to dispose of assets is subject to review by the DOF and the action will become effective five business days (as opposed to three business days under AB X1 26) after appropriate notice is provided to the DOF unless the DOF requests a review. The DOF may extend its review period by up to 60 days (the standard review period is now 40 days). If the DOF does not object to the oversight board's action and no legal action challenging the oversight board's action is commenced within 60 days of the oversight board's action, the oversight board's action will be considered final and can be relied upon as conclusive by any person. (Section 34179(h) and 34181(f))

Provisions of Sections 34177(e) and 34181(a) that require a successor agency to expeditiously dispose of assets and properties of the former redevelopment agency in a manner aimed at maximizing value are suspended. However, the provisions allowing governmentally used assets to be transferred to the appropriate public entity are not suspended.

The suspension remains in effect until the DOF has approved a long-range property management plan prepared by the successor agency (described below). The successor agency must prepare and submit the long-range property management plan to the oversight board and the DOF for approval no later than six months following its receipt of the finding of completion. (Section 34191.5(b))

Once an approved long-range plan is in place, it governs and supersedes all other provisions of AB XI 26 and AB 1484 relating to the disposition and use of real property assets of the former

redevelopment agency. However, if the DOF has not approved a long-range plan by January 1, 2015, the disposition process contained in Sections 34171(e) and 34181(a) are reinstated.

#### **F. Finding of Completion and Long-Range Asset Management Plan**

Upon the DOF issuing a finding of completion and approving the long-range property management plan, the successor agency must transfer all real property, interests in real property, and physical assets (other than those as then may be the subject of an existing enforceable obligation) to the Community Redevelopment Property Trust Fund (the “Trust Fund”). The Trust Fund is to be administered by the successor agency according to its long-range property management plan and the Trust Fund serves as the repository for all properties and property interests covered by the plan. (Section 34191.4 and Section 34191.5(a))

The long-range property management plan must include an inventory of all properties and property interests to be transferred to the Trust Fund. Among other things, the plan must also contain the following information: (i) the date and acquisition value of the properties, and their current estimated or appraised value, (ii) the purpose for which the properties were acquired, (iii) any environmental considerations, (iv) an estimate of any lease revenues and a description of any contractual requirements regarding the disposition of those funds, (v) the potential for transit related uses and the manner in which the properties may otherwise advance any planning objectives of the successor agency, and (vi) a history of previous development proposals for the properties. (Section 34191.5(c)(1))

The plan must address the future use or disposition of all of the properties in the Trust Fund. Permitted uses may include the retention of property for governmental use pursuant to Section 34181(a), the retention of property for future development, the sale of the property, or the use of the property to satisfy an enforceable obligation. (Section 34191.5(c)(2))

Except with respect to properties to be used for governmental purposes and properties to be retained to satisfy an enforceable obligation, (i) if the plan directs the use or disposition of a property for a project identified in an approved redevelopment plan, the property shall be transferred to the city, and (ii) if the plan directs the disposition of a property or the use of revenues generated from the property, for any purpose other than to satisfy an enforceable obligation or to facilitate a project identified in an approved redevelopment plan, the proceeds of the sale will be distributed to the taxing agencies. (Section 34191.5(c)(2)(A) and (B))

Except for governmentally used property, property cannot be transferred to the successor agency or the city unless the long-range plan has been approved by the oversight board and the DOF. (Section 34191.5(c)(2)(C))

Chapter 9 of AB 1484 appears to offer to successor agencies and cities an opportunity to control the disposition of properties in a manner that may further their pre-AB X1 26 plans for redevelopment. The issuance of a finding of completion suspends the pre-AB 1484 “fire sale” process of property disposition, and allows the successor agency to formulate a disposition and management plan for its properties. It appears that such a plan may contain arrangements by

which properties would be disposed of or operated in furtherance of redevelopment plans and projects that were effectively terminated by AB X1 26. However, the long-term management plan is subject to approval by the oversight board and the DOF, and it remains to be seen if their policies or agendas coincide with the redevelopment goals of the cities and successor agencies.

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This Summary is not intended to provide an exhaustive discussion of the implications of AB 1484. Individual situations may require further analysis. Please do not hesitate to contact any of the attorneys at RW&G if you have questions or we can be of further assistance.

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## Appendix A

### **Definitions applicable to Conducting the Due Diligence Reviews**

For purposes of conducting the due diligence reviews, the following terms have the following meanings:

**“Cash” and “Cash Equivalents”** includes, but is not limited to, cash in hand, bank deposits, Local Agency Investment Fund deposits, deposits in the city or county treasury or any other pool, marketable securities, commercial paper, United States Treasury bills, banker’s acceptances, payables on demand and amounts due from other parties as defined in Section 34179.5(c), and any other money owned by the successor agency. (Section 34179.5(b)(1))

**“Enforceable obligation”** includes any of the items listed in Section 34171(d) (pertaining to the definition of “enforceable obligations”), contracts detailing specific work to be performed that were entered into by the former redevelopment agency prior to June 28, 2011, with a third party that is other than the city, and indebtedness obligations as defined in Section 34171(e) (being being bonds or other evidence of indebtedness sold by the redevelopment agency or a joint exercise of powers authority created by the redevelopment agency to third party investors or bondholders to finance or refinance redevelopment projects). (Section 34179.5(b)(2))

**“Transferred”** means the transmission of money to another party that is not in payment for goods or services or an investment or where the payment is *de minimus*. Transfer also means where the payments are ultimately merely a restriction on the use of the money. (Section 34179.5(b)(3))

**“City”** includes, but it is not limited to, (1) any reporting entity of the city for purposes of its comprehensive annual financial report or similar report; (2) any component unit of the city; and (3) any entity which is controlled by the city of for which the city is financially responsible or accountable. (Section 34167.10) As set forth in Section 34167.10, various factors are to be considered in determining that an entity is controlled by the city. (Section 34167.10(b) and (c))

**Minimum Content of Due Diligence Reviews**

<b>Section No.</b>	<b>Item</b>	<b>Notes</b>
34179.5(c)(1)	The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012	
34179.5(c)(2)	The dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city and the purpose of each transfer	The review shall provide documentation of any enforceable obligation that required the transfer.
34179.5(c)(3)	The dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer	The review shall provide documentation of any enforceable obligation that required the transfer.
34179.5(c)(4)	Expenditure and revenue accounting information and the identification of transfers and funding sources for the 2010-11 and 2011-12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012 to those reported to the State Controller for the 2009–10 fiscal year	
34179.5(c)(5)(A)	A separate statement of the total value of the Low and Moderate Income Housing Fund (“LMIH Fund”) and all other funds and accounts as of June 30, 2012	
34179.5(c)(5)(B)	Separately for the LMIH Fund and all other funds and accounts, itemized statements listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities	This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.

Section No.	Item	Notes
34179.5(c)(5)(C)	Separately for the LMIH Fund and all other funds and accounts, itemized statements of the values of any assets that are not cash or cash equivalents	<p>This may include physical assets, land, records, and equipment.</p> <p>Physical assets may be valued at purchase cost or at any recently estimated market value.</p> <p>Housing-related assets must be listed separately.</p>
34179.5(c)(5)(D)	Separately for the LMIH Fund and all other funds and accounts, an itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation	
34179.5(c)(5)(D)	Separately for the LMIH Fund and all other funds and accounts, a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements	
34179.5(c)(5)(D)	Separately for the LMIH Fund and all other funds and accounts, if the review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, an identification of the amount of current balances necessary for retention	

Section No.	Item	Notes
34179.5(c)(5)(D)	Separately for the LMIH Fund and all other funds and accounts, details of the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations	
34179.5(c)(5)(E)	Separately for the LMIH Fund and all other funds and accounts, itemized lists and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the ROPS for the current fiscal year	

**Appendix B**

**Schedule of Implementation Actions for  
 ROPS**

<b>NO.</b>	<b>Action</b>	<b>Date for ROPS 3</b>	<b>Date for Subsequent ROPS</b>
1.	The housing successor provides notice to the successor agency of any commitment of pre-2011 housing bond proceeds it wishes to make. (Section 34176(g)(1)(B))	At least 20 days before the deadline for submitting the ROPS to the oversight board. (AB X1 26 does not specify a deadline for submitting the ROPS to the oversight board.)	At least 20 days before the deadline for submitting the ROPS to the oversight board. (AB X1 26 does not specify a deadline for submitting the ROPS to the oversight board.)
2.	The successor agency submits the ROPS to the oversight board, county administrative officer, county auditor-controller, State Controller, and DOF. (Section 34177(1)(2)(B))	Not specified but before September 1, 2012.	Not specified but prior to 90 days before the date of the next property tax distribution (each June 1 and January 2).
3.	The oversight board approves the ROPS by resolution. (Sections 34177(1)(2)(B) and 34179(e))	By September 1, 2012.	By 90 days before the date of the next property tax distribution (each June 1 and January 2).
4.	The successor agency submits the oversight board-approved ROPS to the county auditor-controller and DOF. (Section 34177(m))	By September 1, 2012.	By 90 days before the date of the next property tax distribution (each June 1 and January 2).

NO.	Action	Date for ROPS 3	Date for Subsequent ROPS
5.	The City is subject to a \$10,000 civil penalty per day if the successor agency does not submit an oversight board-approved ROPS to DOF. (Section 34177(m)(2))	On September 1, 2012, and each day thereafter until the ROPS is submitted.	On the 90th day before the date of the next property tax distribution (each June 1 and January 2) and each day thereafter until the ROPS is submitted.
6.	Any creditor of the successor agency, DOF, or any affected taxing entity may seek a writ of mandate to compel the the successor agency to submit the ROPS to the DOF. (Section 34177(m)(2))	After September 1, 2012.	On or after the 89 <sup>th</sup> day before the date of the next property tax distribution (each June 1 and January 2) and each day thereafter until the ROPS is submitted.
7.	The successor agency’s administrative cost allowance is reduced by 25% if the successor agency does not submit an oversight board-approved ROPS to the DOF. (Section 34177(m)(2))	On September 11, 2012.	On the 80th day before the date of the next property tax distribution (each June 1 and January 2).
8.	If DOF does not request review, the ROPS becomes effective. (Section 34179(h))	5 business days after submittal of the ROPS.	5 business days after submittal of the ROPS.
9.	The county auditor-controller may object to any items on the ROPS that are not demonstrated to be enforceable obligations and object to proposed funding sources and notify the successor agency, the oversight board, and DOF. (Section 34182.5)	Before or after approval of the ROPS by the oversight board, but by no later than October 1, 2012.	Before or after approval of the ROPS by the oversight board, but by no later than 60 days before the date of the next property tax distribution (each June 1 and January 2).

NO.	Action	Date for ROPS 3	Date for Subsequent ROPS
10.	If the oversight board disputes the findings of the county auditor-controller, it may refer the matter to DOF for a determination of what will be approved for inclusion in the ROPS. (Section 34182.5)	Not specified.	Not specified.
11.	The county auditor-controller prepares estimates of amounts of property tax to be allocated and distributed and the amounts of pass through payments to be made in the upcoming six-month period and provides the estimates to the taxing entities and DOF. (Section 34182(c)(3)).	By October 1, 2012.	By each April 1 and October 1.
12.	The county auditor-controller reports certain property tax information to the State Controller and DOF. (Section 34182(d))	By October 1, 2012.	N/A.
13.	The successor agency submits the ROPS and the results of the due diligence review to the auditor-controller. (Section 34179.6(a))	By October 1, 2012, for the Low and Moderate Income Housing Fund and by December 15, 2012 for other funds.	N/A.
14.	DOF makes a determination of the enforceable obligations and the amounts and funding sources of enforceable obligations and notifies the county auditor-controller. (Section 34177(m))	By no later than 45 days after the ROPS is submitted to the DOF.	By no later than 45 days after the ROPS is submitted to the DOF.
15.	The successor agency may request additional review by the DOF and an opportunity to meet and confer on disputed items. (Section 34177(m))	Within 5 business days of the DOF's determination on the ROPS.	Within 5 business days of the DOF's determination on the ROPS.

NO.	Action	Date for ROPS 3	Date for Subsequent ROPS
16.	DOF meets and confers with the successor agency. (Section 34177(m))	The meet and confer period may vary and a late submittal of the ROPS may result in a meet and confer period of less than 30 days.	The meet and confer period may vary and a late submittal of the ROPS may result in a meet and confer period of less than 30 days.
17.	DOF notifies the successor agency and the county auditor-controller of the outcome of its review if a meet and confer was requested. (Section 34177(m))	By December 17, 2012.	At least 15 days before the date of the next property tax distribution (each June 1 and January 2).
18.	If the successor agency reports a shortfall in the amount of available revenues to pay enforceable obligations, the county auditor-controller notifies the State Controller and DOF. (Section 34183(b))	No later than 10 days from the date of notification by the successor agency (which notification must be by December 1, 2012).	No later than 10 days from the date of notification by the successor agency (which notification must be by each May 1 and December 1).
19.	The county auditor-controller verifies the shortfall and reports the findings to the State Controller. (Section 34183(b))	Not specified.	Not specified.
20.	The county auditor-controller remits funds from the Real Property Tax Trust Fund. (Section 34183(a))	January 2, 2013.	Each June 1 and January 2.
21.	The county auditor-controller provides a report to DOF regarding the distribution of property tax for each successor agency. (Section 34183(e))	By January 12, 2012.	Within 10 days of each distribution of property tax.

**Appendix C**

**Schedule of Implementation Actions for  
Housing and LMIH Fund Provisions**

NO.	Action	Date
1.	The housing successor submits to the DOF a list of housing assets. (Section 34176 (a)(2))	By August 1, 2012.
2.	The DOF may object to the housing assets list. (Section 34176(a)(2))	Within 30 days of the DOF’s receipt of the housing assets list.
3.	The housing successor may request a meet and confer process if the DOF objects to the housing assets list. (Section 34176(a)(2))	Within 5 business days of receiving the DOF’s objection.
4.	The meet and confer process regarding the housing assets list concludes.	Not specified.
5.	A transferred asset deemed not to be a housing asset must be returned to the successor agency. The State Controller may order the return of an asset. (Sections 34176(a)(2) and 34178.8)	Not specified, but as soon as practicable following an order of the State Controller.
6.	The housing successor provides notice to the successor agency of any commitment of pre-2011 housing bond proceeds it wishes to make. (Section 34176 (g)(1)(B))	At least 20 days before the deadline for submitting the ROPS to the oversight board. (AB X1 26 does not specify a deadline for submitting the ROPS to the oversight board. September 1, 2012 is the deadline for submitting an oversight board-approved ROPS 3 to the DOF per Section 34177(m).)
7.	The successor agency provides the results of the due diligence review of the LMIH Fund to the oversight board, county auditor-controller, State Controller, and DOF. (Section 34179.6(a))	By October 1, 2012.

NO.	Action	Date
8.	The successor agency provides ROPS 3 (for January 1, 2013 to June 30, 2013) to the county administrative officer, county auditor-controller, and the DOF. (Section 34179.6)	At the same time the successor agency submits the results of the due diligence review per Step 7.
9.	The oversight board holds a public comment session regarding the unobligated LMIH Fund balance to be disbursed to the taxing entities. (Section 34179.6(b))	At least 5 business days before oversight board approval in Step 10.
10.	The oversight board approves the amount of the unobligated LMIH Fund balance to be disbursed to the taxing entities and transmits its determination to the DOF and county auditor-controller. (Section 34179.6(c))	By October 15, 2012 and at least 5 business days after the public comment session in Step 9.
11.	The DOF completes its review of the oversight board's determination of the amount of the unobligated LMIH Fund balance to be disbursed to the taxing entities and notifies the oversight board and the successor agency of the DOF's decision to overturn any decision of the oversight board. (Section 34179.6(d))	By November 9, 2012.
12.	The city and the successor agency may request to meet and confer with the DOF to resolve any disputes regarding the DOF's determination of the amount of the unobligated LMIH Fund balance to be disbursed to the taxing entities. (Section 34179.6(e))	Within 5 business days of the DOF's notification per Step 11, and by no later than November 16, 2012.
13.	The DOF confirms or modifies its determination. (Section 34179.6(e))	Within 30 days of the request to meet and confer.
14.	The successor agency transmits to the county auditor-controller the unobligated LMIH Fund balance amount as determined by the DOF. (Section 34179.6(f))	Within 5 working days of receipt of the DOF's notification per Step 11 (if no meet and confer requested) and within 5 working days of the DOF's notification per Step 13 (if meet and confer requested).

NO.	Action	Date
15.	The county auditor-controller disburses the unobligated LMIH Fund balance amount to the taxing entities. (Section 34179.6(f))	Within 5 working days of the county auditor-controller's receipt of the funds.
16.	The county auditor-controller provides the DOF a report specifying the amount of unobligated LMIH Fund balance submitted by each successor agency. (Section 34179.6(g))	By December 1, 2012.
17.	The oversight board provides 10 days' notice of a meeting to consider directing the successor agency to transfer housing assets to the housing successor. (Section 34181(f))	Not specified, but presumably not until after the DOF completes its review of the housing assets list.
18.	The oversight board adopts a resolution directing the successor agency to transfer housing assets to the housing successor. (Section 34181(f))	At least 10 days after providing the notice specified in Step 17.
19.	The oversight board electronically provides the DOF with written notice and information regarding the oversight board's action to direct the successor agency to transfer housing assets to the housing successor. (Section 34179(h))	Following adoption of the resolution specified in Step 18.
20.	The DOF may request to review the oversight board's action to direct the successor agency to transfer housing assets to the housing successor. (Section 34179(h))	Within 5 days of receiving notification per Step 19.
21.	The DOF completes its review of the oversight board's action to direct the successor agency to transfer housing assets to the housing successor. (Section 34181(f))	Within 60 days of the DOF's request to review the oversight board's action.
22.	Repayments of the LMIH Fund loans and deferrals may commence. (34176(e)(6)(B))	Not prior to fiscal year 2013-14.

**Appendix D**

**Schedule of Implementation Actions for  
 Due Diligence Review**

<b>NO.</b>	<b>Action</b>	<b>Date for LMIH Fund</b>	<b>Date for All Other Funds and Accounts</b>
1.	The successor agency provides ROPS 3 (for January 1, 2013 to June 30, 2013) and the results of the due diligence review to the oversight board, county administrative officer, county auditor-controller, State Controller, and DOF. (Section 34179.6(a))	By October 1, 2012.	By December 15, 2012.
2.	The oversight board holds a public comment session regarding the unobligated fund balance to be disbursed to the taxing entities. (Section 34179.6(b))	At least 5 business days before oversight board approval in Step 3.	At least 5 business days before oversight board approval in Step 3.
3.	The oversight board approves the amount of the unobligated fund balance to be disbursed to the taxing entities and transmits its determination to the DOF and county auditor-controller. (Section 34179.6(c))	By October 15, 2012 and at least 5 business days after the public comment session in Step 2.	By January 15, 2012 and at least 5 business days after the public comment session in Step 2.
4.	The DOF completes its review of the oversight board’s determination of the amount of the unobligated fund balance to be disbursed to the taxing entities and notifies the oversight board and the successor agency of the DOF’s decision to overturn any decision of the oversight board. (Section 34179.6(d))	By November 9, 2012.	By April 1, 2013.
5.	The city and the successor agency may request to meet and confer with the DOF to resolve any disputes regarding the DOF’s determination of the amount of the unobligated fund balance to be disbursed to the taxing entities. (Section 34179.6(e))	Within 5 business days of the DOF’s notification per Step 4 and by no later than November 16, 2012.	Within 5 business days of the DOF’s notification per Step 4.
6.	The DOF meets and confers and confirms or modifies its determination. (Section 34179.6(e))	Within 30 days of the request to meet and confer.	Within 30 days of the request to meet and confer.

NO.	Action	Date for LMIH Fund	Date for All Other Funds and Accounts
7.	The successor agency remits to the county auditor-controller the unobligated fund balance amount as determined by the DOF. (Section 34179.6(f))	Within 5 working days of receipt of the DOF's notification per step 4 (if no meet and confer requested) and within 5 working days of the DOF's notification per step 6 (if meet and confer requested).	Within 5 working days of receipt of the DOF's notification per step 4 (if no meet and confer requested) and within 5 working days of the DOF's notification per step 6 (if meet and confer requested).
8.	The county auditor-controller disburses the unobligated fund balance amount to the taxing entities. (Section 34179.6(f))	Within 5 working days of the county auditor-controller's receipt of the funds.	Within 5 working days of the county auditor-controller's receipt of the funds.
9.	The county auditor-controller provides the DOF a report specifying the amount of unobligated balance amount submitted by each successor agency. (Section 34179.6(g))	By December 1, 2012.	By April 20, 2012.

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ITEM NO. A.03

OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY  
TO THE MANTECA REDEVELOPMENT AGENCY

To: Members of the Oversight Board

From: Suzanne Mallory, Finance Director

Date: August 22, 2012

Subject: Approval of Administrative Budget No. 3

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Recommendation:

Staff recommends that the Oversight Board for the Successor Agency to the Manteca Redevelopment Agency adopt a resolution approving a proposed administrative budget for the six-month fiscal period from January 1, 2013 through June 30, 2013, and taking certain other related actions.

Background:

Pursuant to AB X1 26 and AB 1484, the Successor Agency must prepare a proposed administrative budget and a Recognized Obligation Payment Schedule ("ROPS") for each six-month fiscal period, both of which must be submitted to the Oversight Board for approval. Each proposed administrative budget must include all of the following: (1) estimated amounts for Successor Agency administrative costs for the applicable six-month fiscal period; (2) proposed sources of payment for the administrative costs; and (3) proposals for arrangements for administrative and operations services provided by the City or other entity.

AB X1 26 and AB 1484 are unclear regarding the required timing for the submission of the proposed administrative budget for the period from January 1, 2013 through June 30, 2013 (*i.e.*, the second half of fiscal year 2012-13) ("Administrative Budget No. 3) to the Oversight Board. However, because the Successor's Agency's administrative expenditures also have to be reflected on the ROPS, Administrative Budget No. 3 and the ROPS for the same period ("ROPS No. 3") should be consistent.

The Successor Agency is required to submit the ROPS No. 3 to the Oversight Board for approval and then submit the Oversight Board-approved ROPS No. 3 to the State Department of Finance, State Controller and the County Auditor-Controller no later than September 1, 2012. Staff has prepared a ROPS No. 3 for the Oversight Board's approval at this meeting as a separate agenda item. Staff recommends that the Board approve Administrative Budget No. 3 on the same date as the Board's approval of ROPS No. 3.

The Oversight Board must take action by resolution and must provide DOF, by electronic means, written notice and information about the Oversight Board's action.

*Fiscal Impact:*

Under AB X1 26 and AB 1484, an "Administrative Cost Allowance" is paid to the Successor Agency from property tax revenues allocated by the County Auditor-Controller. The Administrative Cost Allowance is defined as an amount, subject to the approval of the Oversight Board, which is up to 3% of the property tax allocated for enforceable obligations from the Redevelopment Property Tax Trust Fund by the County Auditor-Controller. The amount shall not be less than \$250,000 for any fiscal year unless the Oversight Board reduces this amount. The Administrative Cost Allowance to be received by the Successor Agency on January 2, 2013 for the second half of fiscal year 2012-13 will take into account the amount of Administrative Cost Allowance the Successor Agency received on June 1, 2012. In addition, the Administrative cost Allowance is subject to reduction if there are insufficient funds to pay the enforceable obligations as listed on the ROPS.

RESOLUTION NO. OB \_\_\_\_\_

**A RESOLUTION OF THE OVERSIGHT BOARD OF DIRECTORS FOR THE SUCCESSOR AGENCY TO THE MANTECA REDEVELOPMENT AGENCY APPROVING A PROPOSED ADMINISTRATIVE BUDGET FOR THE SIX-MONTH FISCAL PERIOD FROM JANUARY 1, 2013 THROUGH JUNE 30, 2013 AND TAKING CERTAIN RELATED ACTIONS**

RECITALS:

A. Pursuant to Health and Safety Code Section 34177(j), the Successor Agency to the Manteca Redevelopment Agency (the "Successor Agency") must prepare a proposed administrative budget for each six-month fiscal period (commencing each January 1 and July 1) and submit each proposed administrative budget to the oversight board for the Successor Agency (the "Oversight Board") for approval.

B. There has been presented to this Board for approval a proposed administrative budget for the Successor Agency for the six-month fiscal period from January 1, 2013 through June 30, 2013 ("Administrative Budget No. 3").

**NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE MANTECA REDEVELOPMENT AGENCY, HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:**

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Oversight Board hereby approves the proposed Administrative Budget No. 3 substantially in the form attached hereto as Exhibit A.

Section 3. The staff of the Successor Agency is hereby directed to provide the State Department of Finance ("DOF") written notice and information regarding the action taken by the Oversight Board in Section 2 of this Resolution. Such notice and information shall be provided by electronic means and in a manner of DOF's choosing.

Section 4. The officers of the Oversight Board and staff of the Successor Agency are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
\_\_\_\_\_, CHAIR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, SECRETARY  
OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE  
MANTECA REDEVELOPMENT AGENCY

**EXHIBIT A**

**SUCCESSOR AGENCY TO THE \_\_\_\_\_ REDEVELOPMENT  
AGENCY  
ADMINISTRATIVE BUDGET  
(January 1, 2013 through June 30, 2013)**

**Exhibit A**  
*Successor Agency to the Manteca Redevelopment Agency*  
*Administrative Budget*

*January - June*  
2013

<b>Estimated Expenditures</b> <sup>(1) (2)</sup>	
Professional Services	
Legal Services	40,000
Legal Services - LOC Renewal	75,000
Consulting Services	
Urban Futures	7,500
Property Dispositions	2,500
DHA Consulting	1,500
Audit	20,000
Disclosure Services	250
Banking/Investment Fees	1,000
Material and Supplies	
Supplies & Postage	1,500
Printing	2,500
Mileage	375
Meetings/Training	3,750
Legal Publication	250
Computer Lease	7,040
Insurance	2,240
Utilities	11,700
Property Maintenance	3,096
Staffing	
City Management	36,102
Finance	40,281
City Clerk/Legislative	51,307
Economic Development	74,100
Human Resources & Risk Mgmt	7,905
Information Technology	11,165
Community Development	110,779
Building Safety	75,619
Engineering	9,579
Code Enforcement/Fire Inspection	78,971
<b>Total Budget</b>	<b><u>\$ 676,008</u></b>
<b>Funding Source</b>	
Redevelopment Property Tax Trust Fund	183,000
City Funding	493,008
<b>Total Funding</b>	<b><u>\$ 676,008</u></b>

<sup>(1)</sup> Costs listed may be considered part of the Administrative Cost Allowance depending on interpretation of ABX1 25 by the Department of Finance.

<sup>(2)</sup> The items listed above include amounts to be reimbursed by the Successor Agency to the Manteca Redevelopment Agency pursuant to a cooperative agreement for advance and reimbursement of administrative, overhead and other expenses to be entered into by the City of Manteca and the Successor Agency. Pursuant to the cooperative agreement, the Successor Agency will reimburse the City for costs advanced by the City for the administration and operation of the Successor Agency, including but not limited to the value of staff,

ITEM NO. A.04

OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY  
TO THE MANTECA REDEVELOPMENT AGENCY

To: Members of the Oversight Board

From: Karen L. McLaughlin, Successor Agency Executive Director  
Suzanne Mallory, Finance Director

Date: August 22, 2012

Subject: Approval of ROPS No. 3

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Recommendation:

Staff recommends that the Oversight Board for the Successor Agency to the Manteca Redevelopment Agency adopt a resolution approving the Recognized Obligation Payment Schedule for the six-month fiscal period from January 1, 2013 through June 30, 2013 and taking certain related actions

Background:

Pursuant to AB X1 26, the Successor Agency must prepare a Recognized Obligation Payment Schedule ("ROPS") for each six-month fiscal period (commencing each January 1 and July 1), listing the payments to be made by the Successor Agency during such period. All ROPS must be approved by the Oversight Board. Furthermore, each Oversight Board-approved ROPS must be submitted to the State Department of Finance ("DOF") for review.

On June 27, 2012, the Governor signed the State budget trailer bill AB 1484, which became effective immediately. AB 1484 imposes new requirements and deadlines, beginning with the ROPS covering the period from January 1, 2013 through June 30, 2013 ("ROPS No. 3").

Deadlines for ROPS Submission and Review

AB 1484 does not specify a deadline for the Successor Agency to submit ROPS No. 3 to the Oversight Board for approval. However, the Successor

Agency must submit an Oversight Board-approved ROPS No. 3 to the DOF, the Office of the State Controller and the County Auditor-Controller no later than September 1, 2012. The Successor Agency must submit the ROPS to the DOF electronically in the manner of DOF's choosing. A copy of the Oversight Board-approved ROPS must be posted on the Successor Agency's website.

The DOF may eliminate or modify any items on the ROPS before approving the ROPS. The DOF must make its determination regarding the enforceable obligations and the amount and funding source for each enforceable obligation listed on a ROPS no later than 45 days after the ROPS is submitted. Within five business days of the DOF's determination, the Successor Agency may request to "meet and confer" with the DOF on disputed items. The meet and confer period may vary, but an untimely submission of ROPS No. 3 may result in a meet and confer period of less than 30 days.

The County Auditor-Controller may object to the inclusion of any item on the ROPS that is not demonstrated to be an enforceable obligation and may object to the funding source proposed for any item. The County Auditor-Controller must provide notice of its objections to the DOF, the Successor Agency and the Oversight Board by October 1, 2012.

#### *Penalties for Failure to Make Timely Submission*

If the Successor Agency does not submit an Oversight Board-approved ROPS by September 1, 2012, the City of Manteca will be subject to a civil penalty of \$10,000 per day for every day that the ROPS is not submitted to the DOF. The penalty is to be paid to the County Auditor-Controller for distribution to the taxing entities. If the Successor Agency does not timely submit a ROPS, creditors of the successor agency, the DOF, and affected taxing entities may request a writ of mandate to require the Successor Agency to immediately perform this duty. Additionally, if the Successor Agency does not submit a ROPS within 10 days of September 1st, the Successor Agency's administrative cost allowance for that period will be reduced by 25 percent.

If the Successor Agency fails to submit an Oversight Board-approved ROPS to the DOF within five business days of "the date upon which the ROPS is to be used to determine the amount of property tax allocations", the DOF may determine whether the County Auditor-Controller should distribute any of property tax revenues to the taxing entities, or whether any amount should be withheld for enforceable obligations pending approval of the ROPS. It is not clear what is "the date upon which the ROPS is to be used to determine the amount of property tax allocations."

*Fiscal Impact:*

The preparation and submittal of ROPS No. 3 is for the purpose of allowing the Successor Agency to pay its enforceable obligations for the period from January 1, 2013 to June 30, 2013.

RESOLUTION NO. OB \_\_\_\_\_

**A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE MANTECA REDEVELOPMENT AGENCY APPROVING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE SIX-MONTH FISCAL PERIOD FROM JANUARY 1, 2013 THROUGH JUNE 30, 2013, AND TAKING CERTAIN RELATED ACTIONS**

RECITALS:

A. Pursuant to Health and Safety Code Section 34177(l), the Successor Agency to the Manteca Redevelopment Agency (the "Successor Agency") must prepare a proposed Recognized Obligation Payment Schedule ("ROPS") before each six-month fiscal period (commencing each January 1 and July 1) and submit each proposed ROPS to the oversight board for the Successor Agency (the "Oversight Board") for approval.

B. Pursuant to Health and Safety Code Section 34177(l)(2)(C) and (m), the Successor Agency must (1) submit the Oversight Board-approved ROPS for the six-month fiscal period from January 1, 2013 through June 30, 2013 ("ROPS No. 3"), to the DOF, the Office of the State Controller, and the County Auditor-Controller no later than September 1, 2012; and (2) post a copy of the Oversight Board-approved ROPS No. 3 on the Successor Agency's website.

**NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE MANTECA REDEVELOPMENT AGENCY, HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:**

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Oversight Board hereby approves proposed ROPS No. 3, substantially in the form attached hereto as Exhibit A. Staff of the Successor Agency is hereby authorized and directed to submit a copy of Oversight Board-approved ROPS No. 3 to the DOF, the Office of the State Controller, and the County Auditor-Controller and to post a copy of the Oversight Board-approved ROPS No. 3 on the Successor Agency's Internet website (being a page on the Internet website of the City of Manteca).

Section 3. The Oversight Board hereby designates Suzanne Mallory, as the official designated to whom DOF may make a request for review in connection with actions taken by the Oversight Board.

Section 4. The officers of the Oversight Board and the staff of the Successor Agency are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution, including requesting additional review by the DOF and an opportunity to meet and

confer on any disputed items, and any such actions previously taken by such officers and staff are hereby ratified and confirmed.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
\_\_\_\_\_, CHAIR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, SECRETARY

OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE  
MANTECA REDEVELOPMENT AGENCY

**EXHIBIT A**

**SUCCESSOR AGENCY TO THE \_\_\_\_\_ REDEVELOPMENT  
AGENCY  
RECOGNIZED OBLIGATION PAYMENT SCHEDULE  
(January 1, 2013 through June 30, 2013)**

## Successor Agency Contact Information

Name of Successor Agency: Successor Agency to the Manteca  
Redevelopment Agency  
County: San Joaquin County

Primary Contact Name: Suzanne Mallory  
Primary Contact Title: Finance Director  
1001 W. Center Street, Manteca 95337

Address  
Contact Phone Number: 209-456-8765  
Contact E-Mail Address: [smallory@ci.manteca.ca.us](mailto:smallory@ci.manteca.ca.us)

Secondary Contact Name: Donald Smail  
Secondary Contact Title: Economic Development Manager  
Secondary Contact Phone Number: 209-456-8015  
Secondary Contact E-Mail Address: [dsmail@ci.manteca.ca.us](mailto:dsmail@ci.manteca.ca.us)

**SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

Filed for the January 1, 2013 to June 30, 2013 Period

Name of Successor Agency: Successor Agency to the Manteca Redevelopment Agency

	Total Outstanding Debt or Obligation
<b>Outstanding Debt or Obligation</b>	<b>\$ 220,516,651</b>
<b>Current Period Outstanding Debt or Obligation</b>	<b>Six-Month Total</b>
A Available Revenues Other Than Anticipated RPTTF Funding	67,652,975
B Anticipated Enforceable Obligations Funded with RPTTF	5,687,450
C Anticipated Administrative Allowance Funded with RPTTF	412,550
D Total RPTTF Requested (B + C = D)	6,100,000
Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be the same amount as ROPS form six-month total</i>	<b>\$ 73,752,975</b>
E Enter Total Six-Month Anticipated RPTTF Funding <i>(Obtain from county auditor-controller)</i>	6,100,000
F Variance (E - D = F) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	<b>\$ -</b>
<b>Prior Period (January 1, 2012 through June 30, 2012) Estimated vs. Actual Payments</b> (as required in HSC section 34186 (a))	
G Enter Estimated Obligations Funded by RPTTF <i>(Should be the lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed) *</i>	5,891,943
H Enter Actual Obligations Paid with RPTTF**	5,179,003
I Enter Actual Administrative Expenses Paid with RPTTF	712,940
J Adjustment to Redevelopment Obligation Retirement Fund (G - (H + I) = J)	-
<b>K Adjusted RPTTF</b> <i>(The total RPTTF requested shall be adjusted if actual obligations paid with RPTTF are less than the estimated obligation amount.)</i>	<b>\$ 6,100,000</b>

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
_____	_____
Signature	Date

\* San Joaquin County did not make any disbursements from the RPTTF during the ROPS I period. The number entered represents an allocable amount from FY 2011-12 tax increment received by the Manteca Redevelopment Agency, exclusive of pass-through payments.

\*\* See footnote above. The number entered equals the amount paid with FY 2011-12 tax increment received by the Manteca Redevelopment Agency, exclusive of pass-through payments.

The Successor Agency is completing and submitting the enclosed information under protest. The Successor Agency's completion and submission of ROPS III in the format mandated by the DOF does not and shall not constitute as a waiver by the Successor Agency of its right to challenge administrative, judicial or other proceeding, the validity of the DOF's template, its inconsistency with the governing statutes, or the legality or accuracy of any of the underlying assumptions on which the template is premised.

Name of Successor Agency:

Successor Agency to the Manteca Redevelopment Agency

County:

San Joaquin County

Oversight Board Approval Date: \_\_\_\_\_

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III)**  
**January 1, 2013 through June 30, 2013**

Item #	Project Name / Debt Obligation	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2012-13	Funding Source						
									LMHF	Bond Proceeds	Reserve Balance	Admin Allowance	RPTTF	Other	Six-Month Total
	<b>Grand Total</b>						\$ 220,516,651	\$ 14,613,809	\$ -	\$ 52,229,231	\$ 15,287,444	\$ 412,550	\$ 5,687,450	\$ 136,300	\$ 73,752,975
1	2002 Tax Allocation Revenue Bonds	9/12/2002		US Bank Trust	Bond issue to fund non-housing projects. Interest due October & April. Principal due October	Merged - Area 1&2	42,394,231	1,934,238					1,884,737.50	58,800	1,943,538
2	2004 Merged Area Tax Housing Set Aside Allocation Refund Bonds	11/30/2004		US Bank Trust	Bond issue to fund housing projects. Interest due October & April. Principal due October	Merged - Area 1&2	8,017,792	349,829			241,245		111,242		352,487
3	2004 Housing Trustee Fees	11/30/2004		US Bank Trust	Trustee Fees	Merged - Area 1&2		2,700.00					2,700		2,700
4	2004 Merged Area Tax Allocation Refund Bonds	11/30/2004		US Bank Trust	Bond issue to fund housing projects. Interest due October & April. Principal due October	Merged - Area 1&2	42,942,352	1,832,447			1,301,835		499,335	42,500	1,843,670
5	2004 Trustee Fees	11/30/2004		US Bank Trust	Trustee Fees	Merged - Area 1&2		1,500.00					1,500		1,500
6	2005 Amended Project Area Variable Rate Refunding Bonds	12/13/2005		US Bank Trust	Bond issue to fund non-housing projects. Variable rate debt with monthly swap payments. Principal due October.	Merged - Area 1&2	88,196,700				725,000				725,000
7	2005 Amended Project Area Variable Rate Refunding Bonds	12/13/2005		Piper Jaffray	SWAP Payment	Merged - Area 1&2		1,620,000			810,000		810,000		1,620,000
8	2005 Amended Project Area Variable Rate Refunding Bonds	5/13/2008		State Street Bank	Letter of Credit	Merged - Area 1&2		120,000			-		44,100		44,100
9	2005 Amended Project Area Variable Rate Refunding Bonds	5/13/2008		State Street Bank	Letter of Credit Bank	Merged - Area 1&2		900,000			2,550,000		856,000		3,406,000
10	2005 Amended Project Area Variable Rate Refunding Bonds	5/13/2008		State Street Bank	Letter of Credit Commitment Fees	Merged - Area 1&2		1,480,000			560,000		1,020,000		1,580,000
11	2005 Amended Project Area Variable Rate Refunding Bonds	12/13/2005		Piper Jaffray	Remarketing Fee	Merged - Area 1&2		150,000			75,000				75,000
12	2005 Amended Project Area Variable Rate Refunding Bonds	12/13/2005		US Bank Trust	Principal	Merged - Area 1&2		4,690,000			8,000,000		-		8,000,000
13	2005 Amended Project Area Variable Rate Refunding Bonds	12/13/2005		US Bank Trust	Annual Trustee Fees	Merged - Area 1&2		5,500			5,500				5,500
14	2006 Amended Merged Project Area Subordinate Tax Allocation Bonds	12/14/2006		US Bank Trust	Bonds issue to fund non-housing projects	Merged - Area 1&2	38,815,240	1,378,100			918,800		438,795	35,000	1,392,595
15	2006 Amended Merged Project Area Subordinate Tax Allocation Bonds	12/14/2006		US Bank Trust	Annual Trustee Fees	Merged - Area 1&2		1,500					1,500		1,500
16	Lease	3/1/2011		Sephos Trust	Lease property for 10 years	Merged - Area 1&2	135,000	15,000			15,000				15,000
17	Parking Lot Lease	10/16/2006		FESM	230 & 252 N. Main Street Lease	Merged - Area 1&2	15,336	5,112					5,112		5,112
18	Mosquito Abatement Assessment	annual assessment		San Joaquin County Mosquito & Vector Control District	Mosquito abatement assessment for RDA Properties	Merged - Area 1&2		39.86					25		25
19	Property tax on RDA properties	annual assessment		Shabbir Kahn	Annual RD 17 property tax on RDA Properties	Merged - Area 1&2		1,955.00					1,010		1,010
20	Utilities	monthly		PG&E	PG&E bill for Property owned by RDA	Merged - Area 1&2		23,400.00			10,982		718		11,700
21	Supplemental Retirement Benefits	per MOU		PARS	Supplemental retirement for prior Executive Director	Merged - Area 1&2		17,700.00					8,850		8,850
22	Retiree Health Benefits	monthly per MOU		PERS	Retiree Health Benefits former employees	Merged - Area 1&2		17,586.00			8,795				8,795
23	Legal Costs	10/6/2003		Richard Watson Gershon	Legal services as previously contracted	Merged - Area 1&2		8,357			8,357				8,357
24	Professional Service Agreement	2/1/2011		Keyser Marston	Financial Services - General Contract	Merged - Area 1&2		27,540			27,450				27,450
25	Professional Service Agreement	10/6/2003		RWG/Keyser Marston	Financial Services - Project Specific Contract	Merged - Area 1&2		29,480			29,480				29,480
26	Professional Service Agreement	1/3/2011		Ron Palmquist	Appraisal services for property dispoitoin	Merged - Area 1&2		1,825					1,825		1,825
27	Administrative Allowance			City of Manteca	SA Administrative Expenses as approved by OB	Merged - Area 1&2						412,550			412,550
28	Low/Mod Affordable Housing Developmment			TBD	Anticipated use of housing bond proceeds for development of affordable housing projects. Implementing contracts to be awarded.	Merged - Area 1&2					2,129,231				2,129,231
29	Low/Mod Downpayment Assistance Grants			TBD	Anticipated use of housing bond proceeds to provided downpayment assistance to qualified buyers. Recipients to be identified as they qualify and secure housing.	Merged - Area 1&2					500,000				500,000
30	Courts Project	12/31/2005		City of Manteca	Defined project per 2005/06 Bond Tax Certificates	1&2					5,000,000				5,000,000
31	South Area Regional Infrastructure	12/31/2005 & 12/14/2006		City of Manteca	Defined project per 2005/06 Bond Tax Certificates	1&2					15,000,000				15,000,000
32	McKinley/120 Interchange	12/31/2005 & 12/14/2006		City of Manteca	Defined project per 2005/06 Bond Tax Certificates	1&2					4,000,000				4,000,000
33	Union Road Bridge Widening	12/31/2005		City of Manteca	Defined project per 2005/06 Bond Tax Certificates	1&2					15,500,000				15,500,000
34	Access Rd Milo Candini	12/14/2006		City of Manteca	Defined project per 2005/06 Bond Tax Certificates	1&2					1,225,000				1,225,000





Name of Successor Agency:  
County:

Successor Agency to the Manteca Redevelopment Agency  
San Joaquin County

Pursuant to Health and Safety Code section 34186 (a)  
PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS  
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS I)  
January 1, 2012 through June 30, 2012

Page/Form	Line	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	LMIHF		Bond Proceeds		Reserve Balance		Admin Allowance		RPTTF		Other	
						Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate*	Actual	Estimate	Actual
<b>Grand Total</b>						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 712,940	\$ 712,940	\$ 14,259,055	\$ 5,179,003	\$ -	\$ 175,946
1/RPTTF	1	2002 Tax Allocation Revenue Bonds	US Bank Trust	Bond issue to fund non-housing projects. Interest due October & April. Principal due October	1									2,573,057	\$ 579,670.39		59,148.36
1/RPTTF	2	2004 Merged Area Tax Housing Set Aside Allocation Refund Bonds	US Bank Trust	Bond issue to fund housing projects. Interest due October & April. Principal due October	Merged 1&2									463,416	\$ 109,135.72		7,151.00
1/RPTTF	3	2004 Merged Area Tax Allocation Refund Bonds	US Bank Trust	Bond issue to fund non-housing projects. Interest due October & April. Principal due October	Merged 1&2									2,388,064	\$ 514,388.93		42,724.82
1/RPTTF	4	2005 Amended Project Area Variable Rate Refunding Bonds	Various	Bond issue to fund non-housing projects. Variable rate debt with monthly swap payments. Principal due October.	Merged 1&2									4,830,550	\$ 1,494,655.00		
1/RPTTF	5	2006 Amended Merged Project Area Subordinate Tax Allocation Bonds	US Bank Trust	Bond issue to fund non-housing projects. Interest due October & April. Principal due October	Merged 1&2									1,863,888	\$ 418,875.15		66,921.48
1/RPTTF	8	Legal Costs	Richards Watson Gershon	Legal Costs	Merged 1&2									\$ 39,999.96	\$ 31,643.06		
1/RPTTF	9	RDA Fiscal Consultant	Urban Futures, Inc.	Financial Services	Merged 1&2									\$ 5,242.50	\$ 5,242.50		
1/RPTTF	10	OPA	HOPE Ministries	HOPE Family Shelter Rehabilitation	Merged 1&2									\$ 165,702.93	\$ 165,702.93		
1/RPTTF	11	Pre-Development Loan	Partners	HOPE Family Shelter Rehabilitation	Merged 1&2									\$ -	\$ -		
1/RPTTF	12	Professional Service Agreement	Keyser Marston	Financial Services - General Contract	Merged 1&2									\$ 27,540.00	\$ -		
1/RPTTF	13	Professional Service Agreement	RWG/Keyser Marston	Financial Services - Project Specific Contract	Merged 1&2									\$ 42,817.51	\$ 13,337.50		
1/RPTTF	14	Contract Employee	Avilla, Lane	Code Enforcement Professional Services Contract	Merged 1&2									\$ 16,530.00	\$ 16,530.00		
1/RPTTF	15	Professional Service Agreement	Van Scoyoc Associates	Retainer	Merged 1&2									\$ 9,643.00	\$ 8,701.98		
1/RPTTF	16	Professional Service Agreement	Market Feasibility Advisors	FEZ Feasibility Study	Merged 1&2									\$ 5,700.00	\$ 5,700.00		
1/RPTTF	17	Lease	Sephos Trust	Lease property for 10 years	Merged 1&2									\$ 15,000.00	\$ 15,000.00		
1/RPTTF	18	Contract	Rodgers Construction	HOPE frontage Improvements	Merged 1&2									\$ 74,759.64	\$ 71,310.35		
1/RPTTF	19	Professional Service Agreement	Ron Palmquist	Appraiser	Merged 1&2									\$ 1,950.00	\$ 125.00		
1/RPTTF	20	Contract	Quincy Engineering Inc	South Union/ 120 Interchange	Merged 1&2									\$ 81,659.30	\$ 81,569.30		
1/RPTTF	21	Contract	Suarez & Munoz Constr., Inc	Library Park Expansion	Merged 1&2									\$ 50,275.00	\$ 50,275.00		
1/RPTTF	23	Parking Lot Lease	Galas	173 E. Yosemite Ave Lease	Merged 1&2									-	-		
1/RPTTF	24	Parking Lot Lease	MRPS	133 N. Grant Avenue Lease	Merged 1&2									-	-		
1/RPTTF	25	Parking Lot Lease	MRPS	114 N. Grant Avenue Lease	Merged 1&2									-	-		
1/RPTTF	26	Parking Lot Lease	FESM	230 & 252 N. Main Street Lease	Merged 1&2									5,112	\$ 5,112.00		
2/RPTTF	30	Legal Description	MCR Engineering	FEZ Legal Description	Merged 1&2									1,275	\$ 1,275.00		
2/RPTTF	31	Annual EZ Operating Costs	Enterprise Zone	Annual EZ Operating Costs	Merged 1&2									\$ 21,965.09	\$ 21,965.09		
2/RPTTF	32	Mosquito Abatement	Mosquito & Vector Control	Mosquito Abatement of RDA Properties	Merged 1&2									\$ 39.86	\$ 39.86		
2/RPTTF	33	Property tax on RDA properties	Shabbir Kahn	Properties	Merged 1&2									\$ 1,953.32	\$ 1,953.32		
2/RPTTF	35	Architectual Plans	City of Manteca	Reimbursement for Architectual Plans by MWM	Merged 1&2									\$ 1,540,857.34	\$ 1,540,857.34		
2/RPTTF	36	Concrete and Soil Testing	City of Manteca	Testing by Kleinfelder	Merged 1&2									\$ 1,719.70	\$ 1,719.70		
2/RPTTF	37	Improvements	Kleinfelder	HOPE Family Shelter	Merged 1&2									\$ 694.80	\$ 694.80		
2/RPTTF	38	Supplemental Retirement Benefits	PARS	Director	Merged 1&2									\$ 8,850.00	\$ 8,850.00		
2/RPTTF	39	Retiree Health Benefits	PERS	Retiree Health Benefits former employees	Merged 1&2									\$ 8,793.00	\$ 5,969.52		
2/RPTTF	40	PG&E	PG&E	PG&E bill for Property owned by RDA	Merged 1&2									\$ 11,700.00	\$ 8,488.30		
1/Other	9	San Joaquin County Recorder	Recorder	(reconveyances, etc)	Merged 1&2									\$ 300.00	\$ 215.00		
1/Admin Allow	1				Merged 1&2							712,940	712,940	\$ -			
<p>* The principal of these outstanding Bonds are payable on each October 1<sup>st</sup>. To avoid any potential bond default, the Successor Agency took the reasonable step of listing the full amount of the debt service payment for the Bond Year (from October 2 to October 1) on ROPS I. As events unfolded, the County never made a property tax disbursement in May 2012. In light of the overall availability of funds, the Successor Agency used fiscal year 2011-12 tax increment on hand to make the debt service payment due on April 1st and did not transfer any additional moneys to the bond trustee during the ROPS 1 period. Subsequently the October 1st debt service payment was included again on ROPS II.</p>																	

**ITEM NO. A.05**

OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY  
TO THE MANTECA REDEVELOPMENT AGENCY

To: Members of the Oversight Board

From: Karen L. McLaughlin, Successor Agency Executive Director  
Don Smail, Manteca Economic Development Manager

Date: August 22, 2012

Subject: Request for Legal Counsel for Oversight Board

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Recommendation:

Approve concept of retaining separate legal counsel for the Oversight Board.

Background:

At a previous meeting of the Oversight Board, members of the Board requested that City staff investigate how the Board might be able to retain independent legal counsel to represent it and offer legal advice on any matters that may come before the body.

City staff has reviewed the matter with our legal counsel. The expense of retaining legal counsel for the Board would not be considered a separate expense of the Successor Agency, since it would be a new obligation and thus not enforceable or payable out of former RDA funds. However, it would be an eligible expense to be paid out of the limited administrative funds of the Successor Agency.

At the June 26, 2012 meeting of the Oversight Board, staff suggested that the members could decide to share the expense of retained legal counsel. Members of the Board did not support that proposal, indicating it was their believe the funding should come from the administrative budget of the Successor Agency. The Board asked staff to collect additional information on how other agencies were addressing this question.

Staff contacted a selection of other cities to determine what arrangements are being made in other jurisdictions (copy attached). Of the 25 cities responding, 14 indicated that no legal counsel was being provided to the Oversight Board; seven had retained outside counsel for the Board at City or Successor Agency expense; and the remainder were using their City Attorney or other legal counsel to advise the Board.

Given the complex items likely to come before the Oversight Board, along with the fact that the State Department of Finance has the duty to review and possibly overturn any Board actions, staff agrees that separate legal counsel may be needed and beneficial in certain circumstances.

At its August 21, 2012 meeting, the Successor Agency directed staff to select a qualified law firm or attorney to provide legal services to the Oversight Board on an as-needed basis, with a maximum retainer amount not to exceed \$10,000. Upon concurrence of the Oversight Board, staff will proceed with contacting qualified law firms to seek legal retainer services.

*Fiscal Impact:*

Because the Administrative Budget approved by the Successor Agency for the period July 1, 2012 through December 31, 2012 has already been approved by the Successor Agency, Oversight Board and State Department of Finance, any legal costs for the Oversight Board would have to come from the City of Manteca's existing legal services funds. The proposed Administrative Budget for the period January 1, 2013 through June 30, 2013 (also on the Oversight Board's August 28 agenda for approval) includes an additional \$10,000 for legal expenses specific to the Oversight Board.

## Summary of Legal Counsel Retained for for Oversight Boards

City	Use of OSB Legal Counsel	Comments
Belmont	Contracted Legal Counsel	Included in the ROPS - Admin Expense line item
Cathedral City		City Attorney sits in on meetings
Clovis	Contracted Legal Counsel	General Fund
Coronado	No Legal Counsel	
Emeryville	Contracted Legal Counsel	Included in the ROPS - Admin Expense line item
Fort Bragg	Contracted Legal Counsel	Included in the ROPS - Admin Expense line item
La Quinta	No Legal Counsel	City Attorney represents SA interests. Other Agencies on the Board are expected to receive Counsel from their own legal Counsel.
Lake Elsinore	No Legal Counsel	matter has been agendized pending the opinion of the LOCC
Lawndale	No Legal Counsel	
Milpitas	No Legal Counsel	
Mountain View		City Attorney sits in the meeting representing the SA
Murrieta	No Legal Counsel	
Oceanside	No Legal Counsel	
Oxnard	No Legal Counsel	established a committee to find legal representation
Ranch Cordova	No Legal Counsel	
Santa Maria	Contracted Legal Counsel	City is paying for the cost
Signal Hill		<p>Existing legal counsel of the SA to provide legal advice publicly at meetings, but does not have an attorney-client privilege. The SA legal counsel would not be obligated to reveal confidential information of the SA nor would he be allowed to attend OB closed sessions. This option limits attorney involvement and possibility of conflict opinions as well as limits legal expenses. It also provides for the opportunity of the OB to hire outside legal counsel if it deems that it is necessary at some point.</p> <p>The major disadvantage of this approach is that the OB would not be able to get legal counsel in closed session, though for transparency purposes, Staff will try to limit closed sessions. Additionally, time would be lost if the OB needed to hire outside legal counsel because it would take time to solicit an attorney for representation.</p>
Taft	Contracted Legal Counsel	City pays for Legal Counsel
Thousand Oaks	Contracted Legal Counsel	Included in the ROPS - Admin Expense line item
Truckee		City Attorney sits in the meeting representing the SA
Tulare	No Legal Counsel	
Vacaville	No Legal Counsel	
Vallejo	No Legal Counsel	
Waterford	No Legal Counsel	
Whittier	No Legal Counsel	RDA Successor Agency providing advice to staff