



THE CITY OF SAN DIEGO

REPORT NO: 12-098

DATE ISSUED: July 17, 2012

ATTENTION: Honorable Chair and Members of the Council
Docket of July 23, 2012

SUBJECT: Transfer of affordable housing assets from the Successor Agency to the Successor Housing Entity and the Low and Moderate Income Housing Asset Fund (Citywide)

COUNCIL DISTRICT(S): Districts 2, 3, 4, 8, 9

REFERENCE: None

STAFF CONTACT: David Graham, Office of the Mayor
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**The first requested action item below is being presented to the City Council in its capacity as the board of the local redevelopment successor agency, officially known as the City of San Diego, solely in its capacity as the designated successor agency to the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic ("Successor Agency").

REQUESTED ACTION:

As an informational item, Successor Agency staff will make a presentation regarding the list of affordable housing assets to be transferred from the Successor Agency to the City in its capacity as the successor housing entity. Successor Agency staff also proposes that the Council take the following requested actions:

That the Successor Agency:

1. Authorize the execution and recording of conveyance instruments to accomplish the transfer of affordable housing assets from the Successor Agency to the City as successor housing entity and to the Low and Moderate Income Housing Asset Fund ("Housing Asset Fund") as directed by California Assembly Bills x1 26 and 1484, following approval by the Oversight Board and State Department of Finance (DOF).

That the Council, acting as the Board of the City in its capacity as successor housing entity:

1. Authorize the execution and recording of conveyance instruments to accomplish the transfer of affordable housing assets from the Successor Agency to the City as successor housing entity and to the Low and Moderate Income Housing Asset Fund ("Housing

- Asset Fund”) as directed by California Assembly Bills x1 26 and 1484, following approval by the Oversight Board and the DOF; and
2. Authorize the Chief Financial Officer or designee to create the Housing Asset Fund, within the City’s treasury, for purposes of depositing the affordable housing assets received from the Successor Agency and retaining any funds generated from such affordable housing assets in the future.

STAFF RECOMMENDATION:

Approve request actions.

BACKGROUND:

On June 28, 2011, Governor Brown signed Assembly Bill x1 26 (the “Dissolution Act”) that provides for the elimination of redevelopment agencies and tax increment funding throughout the state and a process for winding down the activities of former redevelopment agencies (“former RDAs”). Section 34176(a) of the legislation allows the entity assuming the role of the Successor Housing Entity to retain the housing assets and functions previously performed by the former RDA, excluding any amounts on deposit in the Low and Moderate Income Housing Fund. The legislation lacked clarity as to the definition of affordable housing assets that may be retained and provided no deadline by which the transfer of housing assets from the Successor Agency to the Successor Housing Entity must occur. To date, the Successor Agency has not transferred any housing assets to the City in its capacity as the Successor Housing Entity.

On June 27, 2012, Governor Brown signed new legislation, Assembly Bill 1484 (“AB 1484”), that significantly changes and clarifies certain provisions of the Dissolution Act. Among the many changes, AB 1484 expands the scope of “housing assets” to include:

- any real property acquired for affordable housing purposes regardless of source of funds, interest in, or restriction on the use of real property, whether improved or not, and personal property within the residences;
- tax increment or other funds encumbered for housing-related enforceable obligations;
- loans, grants receivable, Owner Participation Agreements (OPAs), and Disposition and Development Agreements (DDAs);
- rents and payments from operations;
- amounts owed to the Low and Moderate Income Housing Fund (LMIHF); and
- all housing bond proceeds.

The legislation allows the Oversight Board to determine whether the benefit to the community by preserving and retaining mixed use properties containing an existing or proposed component of affordable housing outweighs the benefit to the taxing entities from their disposition. As mentioned below, the Successor Agency proposes to transfer certain mixed use properties to the City in its capacity as the Successor Housing Entity.

DISCUSSION:

A list of all housing assets previously transferred to the Successor Housing Entity must be submitted to the DOF by August 1, 2012. In this instance, the Successor Agency has not yet transferred any housing assets to the City as Successor Housing Entity. In an abundance of caution, however, Successor Agency staff will submit a list of all housing assets to the DOF by August 1, 2012. The DOF will have thirty days from receipt of the list to object to any item.

In addition, Successor Agency staff will seek approval from the Oversight Board at the earliest opportunity in August 2012 to transfer the housing assets to the City as Successor Housing Entity. The Oversight Board's decision will be subject to review and approval by the DOF. All assets transferred to the Successor Housing Entity shall be maintained in a separate account known as the Housing Asset Fund. All revenues generated from the housing assets are to be used for the purposes of maintaining, producing, preserving or improving affordable housing.

AB 1484 clarifies the Dissolution Act by allowing the Successor Housing Entity to retain and expend Excess Bond Proceeds, which include bond proceeds issued prior to 2011 for purposes of affordable housing that are not presently committed under an enforceable obligation. The Successor Housing Entity must notify the Successor Agency of the intended use of the Excess Bond Proceeds at least twenty (20) days before the deadline to submit the third Recognized Obligation Payment Schedule (ROPS 3) to the Oversight Board. The proposed expenditure of the Excess Housing Bond proceeds must be listed as a separate line item on ROPS 3. Under AB 1484, the accelerated deadline for the Oversight Board's approval of ROPS 3 is September 1, 2012. As such, Successor Agency staff intends to present the proposed ROPS 3 and the proposed six-month administrative budget for the ROPS 3 period for the Successor Agency's consideration later this month, and to forward these items to the Oversight Board at the earliest opportunity in August 2012.

The Oversight Board, the County Auditor-Controller, the State Controller, and the DOF must approve the use of Excess Housing Bond proceeds on ROPS 3, although their review is limited to a determination that the use is consistent with the bond covenants and that sufficient funds are available. Unlike non-housing bond proceeds, the Excess Housing Bond proceeds can be expended before the DOF issues a Finding of Completion, which will occur once all required Successor Agency audits have been completed and approved by the DOF and timely payments to the Redevelopment Property Tax Trust Fund made (on or after April 10, 2013). To the extent that affordable housing funds do not constitute Excess Housing Bond proceeds and are not presently committed through an enforceable obligation, AB 1484 requires the Successor Agency to distribute those funds to the County Auditor-Controller in late 2012 for pro rata distribution to the local taxing entities.

The affordable housing assets listed below and contained in the respective attachments are proposed for transfer to the Housing Successor entity:

- Encumbered Low and Moderate Income Housing Funds in the amount of \$31,862,692.00
- Low and Moderate Income Housing Bond Proceeds in the amount of \$43,274,633.45

- Attachment A – Interest in Real Property held for the purpose of affordable housing, including certain mixed use properties
- Attachment B – Notes receivable (forgivable and non-forgivable), first-time homebuyer loans, OPAs, and DDAs
- Attachment C – Ground leases recorded on properties containing affordable housing
- Attachment D – Recorded covenants in favor of the former RDA restricting properties for affordable housing purposes

The balances presented above and in the attachments are as of June 30, 2012. The actual amount transferred may vary from those presented on the attachments based on adjustments between June 30 and the date of the actual transfer. Pursuant to AB 1484, the DOF is to provide Successor Agencies with a template for use in submitting the list of housing assets to the DOF. The template was issued too late for incorporating in this report, however staff will place the data in the form of the template for submission to the DOF. In addition, Successor Agency staff will modify or supplement the list of housing assets if it is determined that any assets have been inaccurately described in, or inadvertently omitted from, the current list.

After the Oversight Board and the DOF have approved the transfer of housing assets, Successor Agency staff will need to coordinate the transfer of those assets from the Successor Agency to the City as Successor Housing Entity. Accordingly, the Board of the Successor Agency and the City Council are requested to adopt companion resolutions that authorize the execution and recording of the necessary conveyance instruments to accomplish the transfer of housing assets. The real estate housing assets will be transferred by quitclaim deeds (see Attachment E), and the other housing assets will be transferred by assignment and assumption agreement (see Attachment F). The companion resolutions will provide latitude for the execution of additional conveyance instruments as may be reasonably necessary to accomplish the transfer of housing assets. Particulars of the instruments and execution process are further described in the companion resolutions for this item.

FISCAL CONSIDERATIONS:

The required asset transfer will result in unencumbered LMIHF remaining with the Successor Agency for eventual deposit to the County's Redevelopment Property Tax Trust Fund (RPTTF) for distribution to the taxing entities following the completion and DOF approval of the housing asset audit. The costs of maintaining the real property assets transferred to the Housing Successor entity will be funded by the encumbered LMIHF transferred and the program income generated from the properties.

CIVIC SAN DIEGO RECOMMENDATION:

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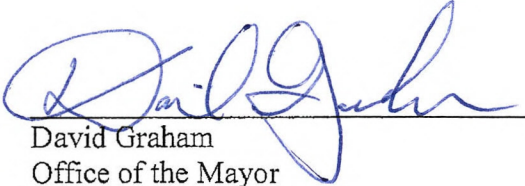
The Board of Civic San Diego will be considering this item at its regular monthly meeting on July 25, 2012.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This action is required to comply with provisions of AB 1484; community updates on this item have not yet been held but will occur during the next several weeks.

CONCLUSION:

Pursuant to the Dissolution Act and AB 1484, Successor Agencies are required to transfer certain affordable housing assets to the Successor Housing Entity and the Housing Asset Fund. The transfer of these assets will preserve the City's investment in affordable housing and maintain compliance with the Dissolution Act and AB 1484.



David Graham
Office of the Mayor



Jay Goldstone
Chief Operating Officer

- Attachments:
- A – Interest in Real Property held for the purpose of affordable housing
 - B – Notes receivable (forgivable and non-forgivable), first-time homebuyer loans, OPAs, and DDAs
 - C – Ground leases recorded on properties containing affordable housing
 - D – Recorded covenants in favor of the former RDA restricting properties for affordable housing purposes
 - E – Form of Quitclaim Deed
 - F – Form of Assignment and Assumption Agreement