City of Culver City, California

Agenda Item Report

Meeting Date: 12/09/2013	Item Number: J-2
JOINT CITY COUNCIL AND HOUSING AUTHORITY AND SUCCESSOR AGENCY TO THE CULVER CITY REDEVELOPMENT AGENCY AGENDA ITEM (FOUR-FIFTHS VOTE REQUIREMENT): (1) City Council Approval of a Budget Amendment and Transfer from the City's General Fund to the Successor Agency to the Culver City Redevelopment Agency; (2) Housing Authority Approval of a Budget Amendment and Transfer from the Housing Authority to the Successor Agency to the Culver City Redevelopment Agency; and (3) Successor Agency to the Culver City Redevelopment Agency Board Approval of a Budget Amendment and Distribution of $2,724,618 to the Los Angeles County Auditor-Controller to Satisfy the Other Funds and Accounts Due Diligence Review and Become Eligible to Receive a Finding of Completion from the California Department of Finance in Satisfaction of the Requirements of the California Health and Safety Code.	
Contact Person/Dept.: Jeff Muir/Finance	Phone Number: (310) 253-5865
Fiscal Impact: Yes [X] No []	General Fund: Yes [X] No []
Public Hearing: [] Action Item: [X] Attachments: []	
Commission Action Required: Yes [] No [X] Date: ________________	
Public Notification: (E-Mail) Meetings and Agendas – City Council (12/04/13); (E-Mail) Meetings and Agendas – Successor Agency (12/04/13); (E-Mail) Meetings and Agendas – Housing Authority	
Department Approval: Jeff Muir (12/04/13)	City Attorney Approval: Carol Schwab (by H. Baker) (12/04/13)
Chief Financial Officer Approval: Jeff Muir (12/04/13)	City Manager Approval: John Nachbar (12/04/13)

RECOMMENDATION:

Staff recommends the following:

1. That the City Council approve a budget amendment and transfer from the City's General Fund to the Successor Agency to the Culver City Redevelopment Agency (Successor Agency) in the amount of $1,462,118 (The City Budget amendment requires 4/5ths vote.); and,

2. That the Board of Directors of the Housing Authority approve a budget amendment and transfer from the Housing Authority to the Successor Agency in the amount of $1,262,500; and,

3. That the Board of Directors of the Successor Agency approve a budget amendment and distribution of $2,724,618 to the Los Angeles County Auditor-Controller (Auditor-Controller) to satisfy the requirements of the Other Funds and Accounts Due Diligence Review and become eligible to receive a finding of completion from the California Department of Finance (DOF).

BACKGROUND:

Pursuant to Health and Safety Code Section 34179.5, each successor agency was required to employ a licensed accountant, approved by the county auditor-controller, to conduct a due diligence review (DDR) to determine the unobligated balances available for transfer to taxing entities.

The review was to determine the amount of cash and cash equivalents held by the Successor Agency determined to be available for allocation to taxing entities as of June 30, 2012. The amount available for allocation was calculated by determining the total value of assets (including cash and cash equivalents) held by the Successor Agency then subtracting the following: (1) restricted funds (e.g. debt service reserve funds), (2) assets that were not cash or cash equivalents (e.g. land and accounts receivable), (3) amounts that were legally or contractually dedicated or restricted for the funding of an enforceable obligation, and (4) amounts that were needed to satisfy obligations that would be put on the Recognized Obligation Payment Schedule ("ROPS") for the current fiscal year. The amount available for allocation to taxing entities also included the value of assets, cash, and cash equivalents transferred from the former redevelopment agency or successor agency to the City, another public agency, or private person after January 1, 2011 if an enforceable obligation to make that transfer did not exist. The DDR documented assets that were considered restricted and provided the respective amounts, sources, and purposes for which the restricted assets should be retained.

Health and Safety Code Section 34179.6 required each successor agency to submit a DDR for former Low Moderate Income Housing funds (LMIHF) and a DDR for all other former Culver City Redevelopment Agency (former CCRA) funds to the Oversight Board of the Successor Agency to the Culver City Redevelopment Agency (Oversight Board) for the oversight board's review and approval. Culver City engaged the firm of Macias, Gini, and O'Connell LLC, a licensed California audit firm, to conduct the review in preparation of the DDR.

On October 10, 2012, the Oversight Board considered and approved the DDR for former LMIHF held by the Successor Agency. That report identified an available LMIHF balance of $279,055, which was subsequently increased by the DOF by $6,685 for a total of $285,740 in former LMIHF available for distribution. The Successor Agency made the required payment to the Auditor-Controller on November 14, 2012.

The second DDR covered all former CCRA funds, excluding former LMIHF, and was called the Other Funds and Accounts (OFA) DDR. On January 10, 2013, the Oversight Board considered and approved the OFA DDR. That report, as prepared by the licensed audit firm, identified no balance available for distribution. The report was then submitted to the DOF prior to the January 15, 2013 deadline.

The DOF was required to complete their review of the OFA DDR no later than April 1, 2013. On April 1, 2013, the Successor Agency received a determination letter from the DOF which made an adjustment of $28,605,651 to the OFA DDR available balance and directed that this amount be transmitted to the Auditor-Controller for distribution to taxing entities.

The Successor Agency strongly disagreed with the conclusions of the DOF determination letter and filed a Meet and Confer Request as prescribed by Health and Safety Code Section 34179.6(e). Successor Agency staff and Successor Agency Special Counsel traveled to Sacramento and met with the DOF on April 24, 2013. On May 9, 2013 the Successor Agency received a final determination letter from the DOF which adjusted the calculated available balance down to $22,178,120.

Successor Agency staff continued to object to this adjusted amount. Over the course of several months and further discussions with the DOF, including a recent meeting in Sacramento on November 22, 2013, additional information and documentation was provided to DOF documenting how all former cash and cash equivalents had been used.

As a result of these discussions and documentation, on December 3, 2013 the Successor Agency received a revised final determination letter from the DOF which has reduced the balance to be distributed to the taxing entities to the amount of $2,724,618.

DISCUSSION:

Staff maintains there are still legitimate arguments which would, if ultimately accepted by the DOF, further reduce the amount from the amount currently accepted by the DOF ($$2,724,618). Those arguments are not being accepted by the DOF who is the final decision maker in this matter. Transmitting this amount to the Auditor-Controller for distribution to the taxing entities will put the Successor Agency in a position where the DOF could issue a finding of completion (FOC) pursuant to Health and Safety Code Section 34179.6. An FOC allows the Successor Agency's Long Range Property Management Plan (LRPMP) to be considered and ultimately approved by the DOF. This could allow for certain development projects to proceed including, but not limited to, Parcel B, Washington/National TOD, and others. Therefore, staff is recommending that the $2,724,618 be transmitted to the Auditor-Controller.

Of the $2,724,618, $1,262,500 is attributable to the developer assistance for the Globe housing project. While these funds were placed in an escrow account, the DOF determined it was not an enforceable obligation. Therefore, this balance has been returned from escrow to the Housing Authority. Upon the Housing Authority Board's approval, this amount will be transferred to the Successor Agency for transmittal to the Auditor-Controller. Should the City Council approve the recommended budget amendment, the remaining balance of $1,462,118 will be transferred from the General Fund balance to the Successor Agency. The budget amendments required to effectuate this transfer requires a 4/5 vote by the City Council.

When the payment to the Auditor-Controller is made, the DOF will be advised. The DOF then has five business days to issue an FOC to the Successor Agency.

FISCAL ANALYSIS:

Should the City Council, Successor Agency Board, and Housing Authority Board take the recommended actions this evening, a total of $2,724,618 will be transmitted to the Auditor-Controller. $1,262,500 is available after being returned from the escrow account for the Globe project, and the balance of $1,462,118 will be made available from the General Fund balance.

ATTACHMENTS:

None.

MOTION:

That the City Council:

Approve a budget amendment and transfer from the City's General Fund to the Successor Agency in the amount of $1,462,118 (10116100.952550).

A budget amendment requires a four-fifths vote.
That the Housing Authority Board:

Approve a budget amendment and transfer to the Successor Agency in the amount of $1,262,500 (47616100.952550); and

That the Successor Agency Board:

Approve budget amendments to increase transfers in from the City's General Fund and Housing Authority by $1,462,118 and $1,262,500, respectively (55090161.391101 and 55090161.391476, respectively); and approve a budget amendment appropriating the payment of $2,724,618 (55090161.571500) to the Los Angeles County Auditor-Controller to satisfy the requirements of the Other Funds and Accounts Due Diligence Review and become eligible to receive a finding of completion from the California Department of Finance.