City of Culver City, California
Agenda Item Report

Meeting Date: 04/02/2012	Item Number: JC-1
JOINT CITY COUNCIL AND SUCCESSOR AGENCY AGENDA ITEM: (1) Approval of a Loan Agreement By and Between the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency; and (2) Approval of Related Budget Amendments.	
Contact Person/Dept.: Jeff Muir	Phone Number: (310) 253-6000
Fiscal Impact: Yes [X] No []	General Fund: Yes [] No [X]
Public Hearing: [] Action Item: []	Attachments: [X]
Commission Action Required: Yes [] No [X]	Date: _______________
Public Notification: Meetings and Agendas – City Council (Successor Agency) (03/30/12)	
Department Approval: Jeff Muir(03/28/12)	Successor Agency General Counsel Approval: Carol Schwab (by H. Baker) (03/28/12) City and Successor Agency Special Counsel Approval: Murray Kane (03/30/12)
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (03/29/12)	Executive Director/City Manager Approval: John M. Nachbar (03/30/12)

RECOMMENDATION:

Staff recommends the City Council and Successor Agency Board approve a Loan Agreement By and Between the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency (Loan Agreement) and approve related budget amendments.

A budget amendment requires 4 affirmative votes.

BACKGROUND:

On February 1, 2012, the Culver City Redevelopment Agency (CCRA) was dissolved pursuant to AB 1X 26 (AB 26). Also, as provided for in AB 26, the Successor Agency to the CCRA (Successor Agency) was created and has the duties and responsibilities set forth in Section 34713(b) of the California Health and Safety Code (as added by AB 26):

> “Except for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part, all

> authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies."

Among the "duties and obligations" of the Successor Agency is the requirement to continue to make payments due for enforceable obligations. Such enforceable obligations include, but are not limited to, debt service payments on the former CCRA's debts.

AB 26 provides for funding to make such required payments from former tax increment revenues (now designated property taxes by AB 26). The Auditor-Controller of each county (including, in the case of the Successor Agency, the Los Angeles County Auditor-Controller), is required to deposit these property taxes in a Redevelopment Property Tax Trust Fund for distribution to the Successor Agency based upon the Recognized Obligation Payment Schedule (ROPS) as that document is adopted by the Successor Agency and subject to the review/approval of the Auditor-Controller, the Oversight Board, the State Department of Finance, and the State Controller.

The Successor Agency has adopted a ROPS for the period of January 1, 2012 – June 30, 2012, which included an item to make the debt service payment due April 26, 2012, and has transmitted the adopted ROPS to the Auditor-Controller. The Successor Agency also stands ready to forward the ROPS to the Oversight Board, the State Department of Finance (DOF), and the State Controller (Controller) on or before April 15, 2012 as required by AB 26. It should be noted that the City has made its two appointments to the Oversight Board. However, since the Oversight Board is comprised of seven members, a quorum of four members has not yet been achieved. Therefore, the Oversight Board may not yet transact business. Even if the Oversight Board is unable to act, the Successor Agency will transmit the ROPS to the Auditor-Controller, the DOF, and the Controller

AB 26 provides that, pursuant to an approved ROPS, the Auditor-Controller (after deducing administrative costs and pass through payments) shall…allocate monies in each Redevelopment Property Tax Trust Fund…to each successor agency for payments listed in its ROPS. Such payments are made semi-annually on January 16 and June 1 of each year (with the exception of this year, where a payment may be made on May 16, 2012 and June 1, 2012).

DISCUSSION:

Staff has been in contact with the Auditor-Controller's Office and has conveyed the need for sufficient funds to be transferred in time for the Successor Agency to make the bond payments due on April 26, 2012. While the Auditor-Controller's Office has attempted to be helpful, a significant question remains as to whether the Auditor-Controller's Office will transfer any funds to the Successor Agency by this date. On March 28, 2012, the Executive Director sent a formal Notice of Insufficient Funds Available as required by AB 26, notifying the Auditor-Controller that the Successor Agency will not have sufficient funds to make payments on enforceable obligations (including bond payments), unless the Auditor-Controller transfers sufficient funds to the Successor Agency prior to April 26.

While Successor Agency staff will continue to work with the Auditor-Controller's Office, it is prudent to prepare a contingency plan in case the Auditor-Controller does not perform her duty as provided in AB 26 and fails to transfer sufficient funds to meet the debt service payment schedule. Therefore, staff recommends the City Council and Successor Agency Board approve a loan agreement between the City and the Successor Agency whereby the Successor Agency would have access to sufficient funds to make a timely debt service payment.

As part of the proposed loan agreement, staff recommends the City lend to the Successor Agency up to $3.8 million from the Community Improvement Funds. Such funds would be lent at no interest with repayment to the City being funded by a future transfer of funds to the Successor Agency from the Auditor-Controller. No City General Funds would be involved.

While there may be some dispute over the timing of the transfer of funds from the Auditor-Controller to the Successor Agency, Successor Agency Special Counsel is confident that AB 26 does make abundantly clear the need for such transferred funds to be used to make payments of enforceable obligations, prime among those obligations being debt service payments.

FISCAL ANALYSIS:

To effectuate the loan, a budget amendment is required to appropriate the transfer of funds from the Community Improvement Fund accounts to the Successor Agency accounts. After the funds are appropriated in the Successor Agency, the Chief Financial Officer may need to transfer appropriations administratively between debt service accounts to align with actual expenditures when debt service is paid in April.

MOTION:

That the City Council

1. Approve a Loan Agreement By and Between the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency; and,

2. Approve a budget amendment increasing the transfer out in Fund 485 (48599900.952558) by $3,000,000; and

3. Approve a budget amendment increasing the transfer out in Fund 488 (48899900.952588) by $800,000; and
   A budget amendment requires 4 affirmative votes.

4. Authorize the City Attorney and City Special Counsel to review/prepare the necessary documents; and,

5. Authorize the City Manager to execute such documents on behalf of the City.

That the Successor Agency Board:

6. Approve a Loan Agreement By and Between the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency; and,

7. Approve a budget amendment increasing the transfer in to Debt Service Fund 578 (57899900.391485) by $3,000,000; and

8. Approve a budget amendment increasing the transfer in to Debt Service Fund 588 (58899900.391488) by $800,000; and

9. Authorize the Chief Financial Officer to administratively transfer funds between Successor Agency Debt Service Funds, as appropriate; and

10. Authorize the Successor Agency General and Special Counsel to review/prepare the necessary documents; and,

11. Authorize the Executive Director to execute such documents on behalf of the Successor Agency; and,