

STAFF REPORT
OVERSIGHT BOARD OF
South Tahoe Redevelopment Successor Agency
Meeting November 29, 2012

TO: Honorable Chair and Board Members Oversight Board for the South Tahoe Redevelopment Successor Agency

FROM: Patrick L. Enright, Legal Counsel for the South Tahoe Redevelopment Successor Agency

DATE: November 29, 2012

RE: Consideration and Approval of Resolution Directing that Proceeds from the Sale of Redevelopment Assets, Housing Assets and Reserve Funds Shall be Designated for Payment of Enforceable Obligations as Approved by ROPs

RECOMMENDATION:

Approve Resolution

ISSUE AND DISCUSSION:

ABX1 26 requires the Successor Agency to wind down the affairs of the South Tahoe Redevelopment Agency with the highest priority being the payment of bonds and other enforceable obligations. With the reassessment of the Chateau parcels and the general downturn in the real estate market, the Successor Agency will have a shortfall in tax increment needed to make the necessary payments for several years. The Successor Agency is also tasked with disposing the redevelopment parcels expeditiously and in a manner aimed at maximizing value. The South Tahoe Redevelopment Agency owns several parcels that need to be sold for the maximum price.

The South Tahoe Redevelopment Agency had approximately \$1.485 million in a housing trust for the Aspens Project which has been transferred to the Successor Agency. In addition, the Department of Finance is disputing the \$426,000 that was transferred to the Housing Authority for the SERAF payment. The Successor Agency has requested to meet and confer with DOF to resolve the issues regarding the reassessment and the Housing funds.

Additionally, the South Tahoe Redevelopment Agency had approximately \$1,000,000 in reserve accounts at the time of dissolution.

Proceeds from Sale of Assets, Housing Fund and Reserve Accounts

The Oversight Board is to direct the Successor Agency on asset disposition that may be accomplished by a distribution of income to taxing entities proportionate to their property tax share from one or more properties that may be transferred to a public or private agency for management, pursuant to the direction of the oversight board. (Health & Safety Code section 34181(a)). Section 34177(e) states, in part, that the Successor Agency is required to do all of the following:

Proceeds from asset sales and related funds that are no longer needed for approved development projects or to **otherwise wind down the affairs of the agency**, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188. (Bold added).

Furthermore, section 34183(b), which addresses when there is a shortfall in the Redevelopment Property Tax Trust Fund, provides that a shortfall shall be determined based on funds transferred from each redevelopment agency, and from funds that have or will become available through assets sales and all redevelopment operations that are insufficient to fund the payments required by the ROPS in the next six (6) month period. As stated by the Auditor-Controller's letter of October 30, 2012 to the Department of Finance, it is clear that the Legislature's intent was to allow for cash flow reserves, avoid default, and wind down affairs as indicated in various sections of the Health and Safety Code (sections 34167(a), 34169(f), 34171(d)1), 34177(a), 34177(a)4), 34177(h), 34177(l)1)(E), 34179.5(c)5D) and 34177(c)6)).

For all of the above reasons, the recommendation is to retain the proceeds from the sale of the parcels, housing assets and reserve accounts to pay enforceable obligations as approved in the ROPS.



Patrick Enright

Attachments:

- Resolution of the Oversight Board of the South Tahoe Redevelopment Successor Agency Approving the Retention of the Proceeds from the Sale of Assets, Housing Assets and Reserve Accounts for the Payment of Enforceable Obligations

**OVERSIGHT BOARD OF THE SOUTH TAHOE
REDEVELOPMENT SUCCESSOR AGENCY
RESOLUTION NO. 2012-____**

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SOUTH TAHOE
REDEVELOPMENT SUCCESSOR AGENCY APPROVING
THE RETENTION OF THE PROCEEDS FROM THE SALE OF ASSETS, HOUSING
ASSETS AND RESERVE ACCOUNTS FOR THE PAYMENT OF
ENFORCEABLE OBLIGATION AS APPROVED BY THE ROPS**

WHEREAS, ABX1 26 was adopted by the California Legislature on June 15, 2011 and signed by the Governor on June 28, 2011, which dissolved redevelopment agencies in California effective October 1, 2011; and

WHEREAS, the California Redevelopment Association and League of California Cities (among others) challenged the constitutionality of AB X1 26, and the California Supreme Court on December 29, 2011 upheld ABX1 26 and amended the legislation to dissolve all redevelopment agencies as of February 1, 2012; and

WHEREAS, ABX1 26 (Health & Safety Code section 34177(e)) requires Successor Agencies to dispose of assets and property of the former redevelopment agency as directed by the Oversight Board; provided, however, that the Oversight Board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Health & Safety Code section 34181; and

WHEREAS, the disposal of assets is to be done expeditiously and in a manner aimed at maximizing value; and

WHEREAS, Health & Safety Code section 34177(e) provides that proceeds from assets sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the Oversight Board, shall be transferred to the County Auditor-Controller for distribution as property tax proceeds under Health & Safety Code section 34188; and

WHEREAS, the South Tahoe Redevelopment Successor Agency anticipates that there will be a significant shortfall of tax increment revenues to make the payments on enforceable obligations, specifically bond payments, and therefore requests that the Oversight Board direct the proceeds from the sale of assets, any housing funds transferred to the Successor Agency and any reserve accounts held by the South Tahoe Redevelopment Agency and transferred to the Successor Agency to be retained by the South Tahoe Successor Agency to make the necessary payments on enforceable obligations as approved of the Recognized Obligation Payment Schedules; and

WHEREAS, the Oversight Board has a fiduciary responsibility to the holders of enforceable obligations and the taxing entities that benefit from distributions pursuant to Health & Safety Code section 34179(i).

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Oversight Board of the South Tahoe Redevelopment Successor Agency does hereby resolve, declare, determine and order as follows:

1. Determines in accordance with AB XI 26 and AB 1484 that the Successor Agency needs to retain the proceeds of any asset sales, any transfers from the Housing Fund and any reserve accounts transferred from the South Tahoe Redevelopment Agency to make scheduled payments on enforceable obligations. The Oversight Board hereby directs that the proceeds be retained by the Successor Agency to make the required payments under ROPS approved by the Oversight Board.
2. Directs the Secretary to the Oversight Board to transmit a copy of the Resolution to the Department of Finance for review in accordance with Health & Safety Code section 34179(h).
3. This Resolution is effective upon passage.

PASSED AND ADOPTED by the Board of Directors of the Oversight Board to the Successor Agency of the South Tahoe Redevelopment Agency at a duly noticed meeting held on November 29, 2012, by the following vote:

AYES: Board Member(s): _____

NOES: Board Member(s): _____

ABSENT: Board Member(s): _____

ABSTAIN: Board Member(s): _____

ATTEST:

By: _____
Ellen Palazzo, Secretary

By: _____
Hal Cole, Chairperson