

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: November 14, 2013
To: The Council
The Mayor
From: Miguel A. Santana, City Administrative Officer
Reference: Community Redevelopment Agency/Los Angeles, A Designated Local Authority
Subject: **CRA/LA'S REQUESTS TO THE CITY FOR THE CONTINUED SUBORDINATION OF PASS-THROUGH PAYMENTS (ASSEMBLY BILL 1290 FUNDS) TO DEBT SERVICE PAYMENTS AS PART OF CRA/LA'S PARTICIPATION IN THE COUNTY'S REFUNDING BOND PROGRAM**

CAO File No. 0220-00013-2387
Council File No.
Council District: 4, 10, 13 & 14

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SUMMARY

The City Administrative Officer (CAO) requests Council approval for three separate subordination requests from the Community Redevelopment Agency/Los Angeles (CRA/LA), A Designated Local Authority and Successor Agency to the former Community Redevelopment Agency (Agency), with respect to the refunding of previously issued Tax Allocation Bonds (Bond) for the following three former Redevelopment Project Areas (RPA): Hollywood, Mid-City and Adelante Eastside. On October 11, 2013, the CAO received three CRA/LA letters dated October 9, 2013 (Attachments I, II and III) requesting that the City of Los Angeles (City) subordinate its statutorily mandated pass-through payments of tax increment (TI) funds (i.e. Assembly Bill [AB] 1290 or Pass-Through Payments) pursuant to California Health and Safety Code Section (Section) 33607.5 in order for the CRA/LA to achieve potential debt service savings through the CRA/LA's participation in the County of Los Angeles' Redevelopment Bond Refunding Program (Program). The City must either approve or disapprove the CRA/LA's requests to subordinate within 45 days after the receipt of the requests. If the City fails to act on this matter within the 45-day period, the subordination requests will be deemed approved.

Under the provisions of Section 34177.5(c), the Successor Agency must provide the affected taxing entities (ATE) such as the City, County, School District, Community College District and others with substantial evidence that sufficient funds will be available to pay both the debt service on the Successor Agency's Bonds and all of the tax sharing payments required by Section 34183(a)(1). The tax sharing payments required by Section 34183(a)(1) include, without limitation, any and all tax sharing agreements with ATEs, statutory tax sharing payments to all ATEs, and inflation factor payments to school districts, to the extent applicable. The City may only disapprove the three subordination requests if it finds based upon substantial evidence that the CRA/LA will not be able to pay the debt service payments and the amount to be paid to the ATEs.

This Office recommends that the Council approve the CRA/LA's subordination requests. Based upon the Successor Agency's revised projections of TI revenue and Pass-Through coverage (Attachments IV, V, and VI) under a number of different growth scenarios ranging from zero to 10 percent, this Office has determined that sufficient funds does exist to pay both the debt service on the Successor Agency's Bonds and all of the tax sharing payments required by Section 34183(a)(1). The City's outside legal counsel for CRA/LA dissolution matters, Richards Watson & Gershon, has reviewed the three CRA/LA's requests and has recommended that the City approve the subordination requests.

Former Agency's Bond Program

In the past, the Council approved the former Agency's request to issue and sell Bonds or Notes in order to finance and/or refinance the costs of redevelopment activities in its RPAs. All debt payments of the former Agency's borrowings are paid with TI revenues from the respective RPAs. Provisions were included in the former Agency's Bond Resolutions (adopted by the former Agency Board and Council) that the City's share of the Pass-Through Payments would be subordinated to the debt service payments to pay principal and interest on the Bonds. This was standard language in the former Agency's Bond Resolutions to ensure that principal and interest payments are primary to other payments. A summary of previous Bond subordination requests that have been granted are presented below:

- In 2002 and 2008, AB1290 payments made to the City were subordinated for the Mid-City RPA Series B and Series C Loan Agreements (C.F. Nos. 02-0474 and 08-0556-S1 respectively).
- In 1998, 2003 and 2008, AB1290 payments made to the City were subordinated for the Hollywood RPA Bonds, Series C, Series D (Taxable) and Series F (C.F. Nos. 97-1751, 03-0386 and 08-0555 respectively).
- In 2002, 2005, 2007 and 2009, AB1290 payments made to the City were subordinated for the Adelante Eastside RPA Bonds Series A (Taxable), Series B (Taxable), Series C (Taxable) and Series D Bonds (C.F. Nos. 02-0599; 05-0430, 07-0656 and 09-0765 respectively).

County of Los Angeles' Redevelopment Bond Refunding Program

On October 17 and 22, 2013, the CRA/LA's Governing Board and Oversight Board, respectively, approved the refunding of certain Bonds for five RPAs (Hollywood, Adelante Eastside, Mid-City, North Hollywood and Little Tokyo). The CAO received subordination requests for the Hollywood, Adelante Eastside and Mid-City RPAs. The County's lead underwriter confirmed that the CRA/LA did not send subordination requests for the North Hollywood and Little Tokyo RPAs. The County is structuring the proposed refunding Bonds to match the same lien priority structure of the original Bond agreements for purposes of credit evaluation and ratings on the proposed refunding Bonds. This is done in order to maintain consistency with the original Bond documents. Therefore the lien priority structure on the proposed refunding Bonds for the five RPAs will be as follows:

- For the Hollywood and Adelante Eastside RPAs, the County’s underwriter included all tax sharing payments to all ATEs (see column entitled “Pass-Through Payments” on Attachments I, II, IV and V).
- For the Mid-City RPA, the City is the only ATE whose statutory tax sharing payments have historically been subordinated. As a result, the City is the only ATE in this RPA being requested to subordinate its tax sharing payments.
- For the North Hollywood and Little Tokyo RPAs, the City is not being asked to subordinate its Pass-Through Payments because the Pass-Through Payments are not currently being subordinated.

The CRA/LA expects the Bond refunding to be completed by December 2013. The requested subordination would facilitate the issuance of refunding Bonds so potential substantial debt service savings can be achieved in the five Bond issuances discussed above. This Program was established under AB1484 to assist successor agencies in refunding Bonds or other indebtedness and provide debt service savings, efficiencies in issuance, and costs of issuance savings to successor agencies. Pursuant to Section 34177.5(c), the CRA/LA requests that Pass-Through Payments required to be made to the City for specific Redevelopment Plan Areas be subordinated to the debt service payments on the proposed refunding Bonds. As a result, if there is a shortage of future TI revenue in any six-month calendar period (ending June 30 or December 31) the refunding Bonds would be paid prior to the Pass-Through Payments to the City being made to the extent provided under Section 34183. It should be noted that historically this call on the Pass-Through Payments for the City has not happened.

Assembly Bill 1290 Funds

In 1993, the State legislature enacted AB1290 which allocates a portion of all property TI funds generated from RPAs created or amended in certain ways after December 1993 to ATEs in accordance with a statutory formula, generally summarized as follows:

| Tier (Number of Years) | Pass Through⁽¹⁾ |
|-------------------------------|-----------------------------------|
| Tier A (Years 1-10) | 25 percent |
| Tier B (Years 11-30) | 21percent + Tier A |
| Tier C (Years 31-40) | 14percent + Tiers A & B |

(1) Section 34183(a)(1) provides that the amount of Pass-Through Payments computed for distribution by the County Auditor-Controller to the ATEs will be computed as though the requirement to set aside funds for the Low and Moderate Income Housing Fund were still in effect.

The City is eligible to receive 32 percent of the AB1290 funds set aside for the ATEs. In 2003, a Citywide policy was adopted that all AB1290 TI revenue be retained by the former Agency for use in the RPA or Council District in which it is generated (C.F. 00-0801). On March 8, 2011, the Council instructed the former Agency to work with the Office of the Chief Legislative Analyst (CLA) to take all necessary steps to transfer all unencumbered AB1290 funds to the City to

administer (C.F. 11-0086). On March 15, 2011, \$23.5 million was transferred to the City from the former Agency, which retained only previously encumbered funds. At that time, \$21 million was for projects previously approved by former Agency's Board and Council (C.F. 11-0763). In May and October 2011, additional AB1290 funds were subsequently transferred to the City from the former Agency, bringing the total amount transferred to the City to \$29.4 million (C.F. 11-0349).

On June 29, 2011, the State Legislature enacted redevelopment dissolution legislation which eliminated Redevelopment Agencies (RDAs). Effective February 1, 2012, the former Agency was dissolved pursuant to AB1x-26. Since June 1, 2012, the Office of the County Auditor Controller (CAC) has been distributing AB1290 funds directly to the City. The CLA has been managing these funds on behalf of the City. To date, the CAC has paid the City a total of \$21.6 million in AB1290 funds. The AB1x26 does not modify the calculations relative to the City share of AB1290 funds. As a result, the City will continue to receive AB 1290 funds, but as RPAs begin to expire, future revenues will decline.

AB1290 Litigation - Los Angeles Unified School District

In 2007, the Los Angeles Unified School District (LAUSD) filed a Petition for Writ of Mandate (Petition) against the County and the RDAs within the County, and also named various ATEs, including the City, as real parties in interest. The Petition alleges that the County's calculation of LAUSD's proportionate share of AB1290 funds fails to include the amount of payments it receives from the County's Educational Revenue Augmentation Funds (ERAF). The Petition was seeking to have the County and/or the RDAs re-calculate LAUSD's proportionate share and apply that new share prospectively and retroactively to 1993 (the year AB1290 payments commenced).

In 2010-11, the CAC recalculated the statutory formula for property tax distribution to all the ATEs and included ERAF in the calculation which is approximately 25 percent for most RPAs. The City's share was reduced from 32 percent in 2009-10 to approximately 26 percent for 2010-11 (a decrease of 20 percent). On June 15, 2012, the Los Angeles Superior Court (Superior Court) determined retrospective relief should be granted and that the LAUSD is entitled to a retroactive recalculation of AB1290 payments for each fiscal year from fiscal year 2003-04 through January 31, 2012 of fiscal year 2011-2012. Starting January 1, 2013, the CAC began distributing property tax funds directly to ERAF. To date, the CAC has paid ERAF a total of \$53.9 million in property tax distributions.

This report is in compliance with the City's financial policies.

RECOMMENDATION

That the Council approve the three attached subordination requests from the Community Redevelopment Agency/Los Angeles (CRA/LA), A Designated Local Authority and Successor Agency to the former Community Redevelopment Agency (Agency) to subordinate the City of Los Angeles' share of its statutorily mandated pass-through payments (Assembly Bill 1290 funds) in order to facilitate the issuance of refunding the Bonds for debt service savings through the CRA/LA's participation in the County of Los Angeles' Redevelopment Bond Refunding Program

with respect to the former Agency's Hollywood, Mid-City, and Adelante Eastside Redevelopment Project Areas (Attachment I, II and III).

FISCAL IMPACT STATEMENT

There is no impact to the City's General Fund. All debt payments of the former Agency's borrowing are paid with Tax Increment revenues from the respective Redevelopment Project Areas. The source of funds identified for the CRA/LA's subordination requests is the City of Los Angeles' share of its statutorily mandated pass-through payments (Assembly Bill [AB] 1290 funds). AB1290 funds are considered by the City of Los Angeles as special funds due to the existing Council policy in which all AB1290 funds are retained for use in the Redevelopment Project Area or Council District in which it is generated.

MAS:LJS/MDG: 02140046c

Attachments:

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| Attachment I | CRA/LA subordination request letter for Adelante Eastside RPA |
| Attachment II | CRA/LA subordination request letter for Hollywood RPA |
| Attachment III | CRA/LA subordination request letter for Mid-City RPA |
| Attachment IV | Revised projection of TI revenue/Pass-through coverage (Adelante Eastside) |
| Attachment V | Revised projection of TI revenue/Pass-through coverage (Hollywood) |
| Attachment VI | Revised projection of TI revenue and Pass-through coverage (Mid-City) |