

OVERSIGHT BOARD CITY OF BRISBANE

OVERSIGHT BOARD MEETING DATE: February 11, 2015

ITEM TITLE: Repayment Schedule for RDA #2 SERAF

Recommendation:

Review and approve the Repayment Schedule for the former Redevelopment Project Area #2 loan from the Low Moderate Income Housing Fund (LMIHF) for SERAF and approve Resolution OB 2015-03.

Fiscal Implications:

Outstanding amounts borrowed from the Low and Moderate Income Housing Fund are required to be paid prior to requesting repayment for any RDA/City loans.

Background:

A law signed by the Governor July 2009 shifted redevelopment money to Supplemental Educational Revenue Augmentation Fund (SERAF) for payment to K-12 schools. Severe penalties were in place for non-payment. Since the Brisbane Project Areas did not have the cash to make these payments, the City borrowed from the Low and Moderate Income Housing Fund with plans to repay in the following years.

After the redevelopment agencies were dissolved, repayment was considered moot but AB1484 was passed which added back some of the affordable housing provisions including repayment of the SERAF loans to LMIHF.

Discussion:

SERAF repayments are subject to the same formula restrictions as RDA/City loans: the maximum repayment amount allowed each fiscal year is equal to one half of the increase between "the amount distributed" to the taxing entities in that fiscal year and the amount distributed to taxing entities in the 2012-13 base year.

This formula means that the City does not know in advance how much will be available for payment. The Department of Finance has stated that it would not oppose a repayment schedule that indicates that repayment amount for each fiscal year will be equal to the maximum amount allowed by this formula.

Attachments:

Resolution OB 2015-03.


Betsy Cooper
Deputy Finance Director

RESOLUTION NUMBER OB 2015-03

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE CITY OF BRISBANE APPROVING THE SUCCESSOR AGENCY'S REPAYMENT OF A LOAN OWED TO THE FORMER AGENCY'S LOW AND MODERATE INCOME HOUSING FUND IN ACCORD WITH HEALTH AND SAFETY CODE SECTION 34171 (d)(1)(G)

WHEREAS, in accord with the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000, et seq. ("CRL") the City Council of the City of Brisbane ("Brisbane") previously established the Redevelopment Agency of the City of Brisbane ("Agency") to carry out the purposes of and exercise the powers granted to community redevelopment agencies under the CRL; and

WHEREAS, on February 1, 2012, the Agency was dissolved pursuant to Assembly Bill 1X26 (Stats. 2011, 1st Ex. Sess. Ch. 5) ("AB 26") and its rights, powers, duties and obligations were transferred to a "successor agency" (as defined by CRL Section 34171(j) and Section 34173); and

WHEREAS, the City Council elected to act as the Agency's successor agency ("Successor Agency") under CRL Section 34173, and, as such, is charged with administering the retirement of the former Agency's debts and other obligations; and

WHEREAS, prior to its dissolution, the Agency became obligated under the CRL to make specified payments into the local "Supplemental Education Revenue Augmentation fund" ("SERAF"); and

WHEREAS, the CRL permitted the Agency to borrow from the Agency's "Low and Moderate income Housing Fund") ("LMIHF") if necessary to satisfy the Agency's SERAF payment obligations; and

WHEREAS, on May 10, 2010, the Agency borrowed the sum of Five Hundred Seventy-two Thousand and Five Hundred Nine Dollars (\$572,509) ("SERAF Loan") from the LMIHF in order to satisfy its SERAF payment obligation; and

WHEREAS, the CRL obligated the Agency to repay the SERAF Loan, but this obligation was not satisfied at the time of the Agency's dissolution, and accordingly, the Successor Agency must arrange for the repayment of the SERAF Loan; and

WHEREAS, CRL Section 34176(e)(6) provides that the Agency's SERAF Loan repayment obligation is a housing asset belonging to the entity ("Housing Successor") which assumed the former Agency's housing assets and functions under CRL Section 34176; and

WHEREAS, the City elected to act as the Housing Successor for the former Agency; and

WHEREAS, CRL Section 34176 (e)(6)(B) provides that, commencing in fiscal year 2013/14, the Successor Agency may start repaying the SERAF Loan with funds from the Redevelopment Property Tax Trust Fund (“RPTTF”) administered by the San Mateo County Auditor-Controller (“Auditor-Controller”) subject to prior approval by the Oversight Board in accord with CRL Section 34171 (d); and

WHEREAS, under CRL Section 34171(d)(1)(G), the Agency’s SERAF Loan repayment obligation is an enforceable obligation and, as such, it may be included on the Recognized Obligation Payment Schedules (“ROPS”) prepared by the successor Agency under CRL Section 34177; and

WHEREAS, the amount of each SERAF Loan payment which may be included on a ROPS is limited to an amount (“SERAF Loan Payment Installment”) equal to: one-half of the increase between the amount distributed by the Auditor-Controller to taxing entities pursuant to paragraph (4) of CRL Section 34183(a) in the then-current fiscal year (“Current Year Residual Distribution”) and the amount distributed to taxing entities pursuant to that same paragraph in the 2012-13 base fiscal year (“Base Year Residual Distribution”); and

WHEREAS, Successor Agency staff has prepared a proposed SERAF Loan repayment schedule (“SERAF Loan Repayment Schedule”) (copy attached as Exhibit A) for the Oversight Board’s approval in accord with CRL Sections 34171 (d)(1)(G) and 34191.4(b); and

WHEREAS, the SERAF Loan Repayment Schedule represents the Successor Agency’s good faith estimation of the SERAF Loan Repayment Installment for each upcoming six-month fiscal period commencing on or after July 1, 2016, based on currently estimated Base Year Residual distribution and Current Year Residual Distribution for each upcoming fiscal year period; and

WHEREAS, at the time of preparation of the applicable ROPS, Successor Agency staff will adjust the amount of each SERAF Loan Repayment Installment estimate shown on the SERAF Loan Repayment Schedule to an amount (“Adjusted SERAF Loan Repayment Installment”) equal to the greatest amount permissible under the CRL, based on the then-current property tax information; and

WHEREAS, CRL Section 34176(e)(6)(A) requires that all SERAF Loan Repayment Installments be paid to the Housing Successor and used for purposes consistent with the CRL’s affordable housing requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY OF THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE AS FOLLOWS:

Section 1. In accord with CRL Section 34171(d)(1)(G) and Section 34191.4(b)(2)(A), the Oversight Board approves the SERAF Loan Repayment Installment Schedule in the form attached as Exhibit A, subject to the Oversight Board's direction to the Successor Agency staff to determine the Adjusted SERAF Loan Repayment Installment based on the updated property tax information available at the time of preparation of the applicable ROPS.

Section 2. The Successor Agency is authorized to include the amount of each Adjusted SERAF Loan Repayment Installment on each ROPS prepared by the Successor Agency for every 6-month period commencing on or after July 1, 2016.

Section 3. Once received from the Auditor-Controller, every SERAF Loan Repayment Installment will be paid by the Successor Agency to the City (as the Housing Successor), and the outstanding balance of the SERAF Loan will be reduced by a corresponding amount, and the Housing Successor will use the funds only for purposes consistent with the CRL's affordable housing requirements.

Section 4. The Oversight Board directs Successor Agency staff to transmit this Resolution to the State Department of finance as required by CRL Section 34179(h). This Resolution will become effective in accord with CRL Section 34179(h).

Paul Scannell, Chairman

The foregoing resolution was introduced at a regular meeting of the Oversight Board of Successor Agency to the City of Brisbane Redevelopment Agency, held on the 11th day of February, 2015, and was adopted by the following vote:

AYES:

NOES:

ABSENT:

Sheri Marie Spediacci, Board Clerk

Exhibit A

SERAF Debt Repayment Schedule

1) Original SERAF amount owed to the Housing Fund	\$572,509.33
2) Total Outstanding Debt or Obligation	\$572,509.33
3) Repayment based on State requirements related to the waterfall concept in accordance with Code Section 34191.4(2)(B)	