

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

***** REVISED *****
BOARD MEETING AGENDA

August 14, 2014
9:00 a.m.

A regular meeting of the Board of Directors will be held at 9:00 a.m. on Thursday, August 14, 2014, in the BART Board Room, Kaiser Center 20th Street Mall – Third Floor, 344 – 20th Street, Oakland, California.

Members of the public may address the Board of Directors regarding any matter on this agenda. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the Board. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

Any action requiring more than a majority vote for passage will be so noted.

Items placed under “consent calendar” are considered routine and will be received, enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from a Director or from a member of the audience.

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to these meetings, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at 510-464-6083 for information.

Rules governing the participation of the public at meetings of the Board of Directors and Standing Committees are available for review on the District's website (<http://www.bart.gov/about/bod>), in the BART Board Room, and upon request, in person or via mail.

Meeting notices and agendas are available for review on the District's website (<http://www.bart.gov/about/bod/meetings.aspx>), and via email or via regular mail upon request. Complete agenda packets (in PDF format) are available for review on the District's website no later than 48 hours in advance of the meeting. Those interested in being on the mailing list for meeting notices (email or regular mail) can do so by providing the District Secretary with the appropriate address.

Please submit your requests to the District Secretary via email to BoardofDirectors@bart.gov; in person or U.S. mail at 300 Lakeside Drive, 23rd Floor, Oakland, CA 94612; fax 510-464-6011; or telephone 510-464-6083.

Kenneth A. Duron
District Secretary

Regular Meeting of the
BOARD OF DIRECTORS

The purpose of the Board Meeting is to consider and take such action as the Board may desire in connection with:

1. CALL TO ORDER

- A. Roll Call.
- B. Pledge of Allegiance.
- C. Introduction of Special Guests.

2. CONSENT CALENDAR

- A. Approval of Minutes of the Meeting of July 24, 2014 (Special), and July 24, 2014 (Regular).* Board requested to authorize.
- B. Fixed Property Tax Rates Fiscal Year 2014-2015 - General Obligation Bonds.* Board requested to authorize.

3. ADMINISTRATION ITEMS

Director Saltzman, Chairperson

- A. Collateral Pool for Small Business Bonding Assistance Program and Risk Mitigation.* Board requested to authorize.
- B. Time Extension to Agreement No. 6M2020 Brokerage Services for an Owner Controlled Insurance Program.* Board requested to authorize
- C. Amended Reserve Fund Policy.* For information.
- D. Risk Management Policy.* For information.

4. ENGINEERING AND OPERATIONS ITEMS

Director McPartland, Chairperson

- A. Change Order to Contract No. 15CQ-201, Procurement of Direct Fixation Rail Fasteners, with L.B. Foster Company, for Extension of Time.* Board requested to authorize.
- B. Quarterly Service Performance Review – Fourth Quarter Fiscal Year 2014.* For information.

5. PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS

Director Raburn, Chairperson

- A. Station Profile Survey Funding Agreement with Metropolitan Transportation Commission.* Board requested to authorize.

6. GENERAL MANAGER'S REPORT

- A. Report of Activities, including Update of Roll Call for Introduction Items.

7. CONTROLLER/TREASURER'S REPORT

- A. Quarterly Report of the Controller/Treasurer.* For information.

8. BOARD MATTERS

- A. Assembly Bill 2493 (Bloom) Statewide Economic Development, Infrastructure Construction, Affordable Housing and Job Creation.* Board requested to support. (Director Blalock's request)
- B. Board Member Reports.
(Board member reports as required by Government Code Section 53232.3(d) are available through the Office of the District Secretary.)
- C. Roll Call for Introductions.
(An opportunity for Board members to introduce a matter for consideration at a future Committee or Board Meeting or to request District staff to prepare items or reports.)
- D. In Memoriam.
(An opportunity for Board members to introduce individuals to be commemorated.)

9. PUBLIC COMMENT

(An opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.)

10. CLOSED SESSION (Room 303, Board Conference Room)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

| | |
|--------------------------|--|
| Property: | Property Located at the Pleasant Hill/Contra Costa Centre BART Station |
| District Negotiators: | Robert Powers, Assistant General Manager, Planning & Development; and Jeffrey P. Ordway, Manager, Real Estate and Property Development |
| Negotiating Parties: | Contra Costa County and the San Francisco Bay Area Rapid Transit District |
| Under Negotiation: | Price and Terms |
| Government Code Section: | 54956.8 |

11. OPEN SESSION

- A. Time extension to the Exclusive Negotiating Agreement between the Pleasant Hill BART Station Leasing Authority Joint Powers Agency and Pleasant Hill Leasing Associates, LLC. Board requested to authorize.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,712th Meeting
July 24, 2014

A special meeting of the Board of Directors was held July 24, 2014, convening at 4:03 p.m. in the Board Room, 344 20th Street, Oakland, California. President Keller presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Mallett, Murray, Radulovich, Saltzman, and Keller.

Absent: Directors McPartland and Raburn. Directors Blalock and Fang entered the Meeting later.

President Keller called for Public Comment on Item 3 only. No comments were received.

President Keller announced that the Board would enter into closed session in the adjacent conference room under Item 3-A (Conference with Labor Negotiators) of the special meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Board Special Meeting recessed at 4:04 p.m.

The Board reconvened in closed session at 4:12 p.m.

Directors present: Directors Mallett, Murray, Radulovich, Saltzman, and Keller.

Absent: Directors McPartland and Raburn. Directors Blalock and Fang entered the Meeting later.

Directors Blalock and Fang entered the Meeting.

The Board Special Meeting recessed at 4:32 p.m.

The Board reconvened in open session at 4:59 p.m.

Directors present: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman and Keller.

President Keller announced that the Board met in Closed Session and there were no announcements to be made.

The Special Board Meeting was adjourned at 5:00 p.m.

Kenneth A. Duron
District Secretary

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors
Minutes of the 1,713th Meeting
July 24, 2014

A regular meeting of the Board of Directors was held July 24, 2014, convening at 5:00 p.m. in the Board Room, 344 20th Street, Oakland, California. President Keller presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman and Keller.

Absent: None.

President Keller called for Public Comment. No comments were received.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meeting of June 26, 2014.
2. Recruitment and Relocation for the Position of Superintendent of Way and Facilities.
3. Resolution to Convey Excess Parcels to Four Adjoining Property Owners in San Francisco.
4. Appointments to the AB716 Transit Security Advisory Committee
5. Award of Contract No. 15QG-120, Replace Glass Panels at Hayward Station Platform.
6. Award of Invitation for Bid No. 8928, Escalator Step Assemblies

President Keller announced that at the request of Director Mallett, Item 3-B, Recruitment and Relocation for the Position of Superintendent of Way and Facilities, would be removed from the consent calendar.

Director Murray made the following motions as a unit. Directors Blalock and Mallett seconded the motions, which carried by unanimous acclamation. Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

1. That the Minutes of the Meeting of June 26, 2014, be approved.
2. Moved the Adoption of Resolution No. 5263, In the matter of authorizing the grant of fee to Steven Zhong and Nancy Zhong BART Parcel O-M422X (Portion of APN 3144C-048), Resolution No. 5264 In the matter

of authorizing the grant of fee to Chanthea Soeung and San Aung BART Parcel O-M425X (O-M647X) (Portions of APN 3144C-004, 3144C-048) and Resolution No. 5265 In the matter of authorizing the grant of fee to Linda Doane-Altafi BART Parcel O-M428X (O-M429X) (Portions of APN 3144B-027, 3144B-036) with authorization to execute any agreements and documents that are necessary in connection with the motion.

3. That the Board approves the following appointments for a term effective July 24, 2014 to December 31, 2014: that Chris Finn, ATU 1555 President, be appointed to replace Antonette Bryant; that the Rev. Jasper Lowery, Youth and Mental Health Advocate, be appointed to replace George Holland; and that Luis Ortega, Oakland's District 5 Community Leader, be appointed to replace Lauren Sugayan.
4. That the General Manager is authorized to award Contract No. 15QG-120, Replace Glass Panels at Hayward Station Platform to ACR Glazing Contractors, Inc., DBA ACR Glass and Doors of Oakland, California for the Bid price of \$130,894,00, pursuant to notification to be issued by the General Manager and subject to compliance with the District's protest procedures.
5. That the General Manager is authorized to award IFB No. 8928, an estimated quantity contract, for the purchase of escalator step assemblies (Item 1) to Precision Escalator for the bid price of \$449,080.00, including applicable sales tax and escalator step assemblies (Item 4) to Kone Spares for the bid price of \$490,500.00, including applicable sales tax, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures.

President Keller brought the matter of Recruitment and Relocation for the Position of Superintendent of Way and Facilities, before the Board. The item was discussed.

Director Murray moved that the General Manager or her designee is authorized, in conformance with established District procedures governing the procurement of professional services, to obtain executive search services to identify qualified candidates both inside and outside of California, and to pay relocation assistance in an amount not to exceed \$18,000 in accordance with Management Procedure 70 – New Employee Relocation Expense Reimbursement for the position of the Superintendent of Way and Facilities. Director Blalock seconded the motion, which carried by electronic vote. Ayes – 8: Directors Blalock, Fang, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes –1: Director Mallett.

Director Saltzman, Chairperson of the Administration Committee, brought the matter of Oakland International Airport Employee Discount Program before the Board. Ms. Pamela Herhold, Manager of Financial Planning, presented the item. The item was discussed.

Director Raburn moved that the General Manager be authorized to execute an agreement with the Port of Oakland for a Discounted Project Fare Program that will offer Oakland International

Airport-badged employees a discounted Project Fare of \$2.00. Director Mallett seconded the motion. Discussion continued.

Mr. Jerry Grace addressed the Board

The motion carried by the required two-thirds majority. Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

Director Saltzman brought the matter of District's Publicly Available Pay Schedule of Base Pay Ranges in Accordance with California Public Employee's Retirement System Requirements. Ms. Allison Picard, Assistant General Manager Employee Relations, presented the item.

Director Mc Partland moved the approval of the District's pay schedule for all District employees. Director Blalock seconded the motion which carried by unanimous electronic vote. Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

Director McPartland, Chairperson of the Engineering and Operations Committee, brought the matter of Professional Service Agreements No. 6M8073 and No. 6M8085 Sustaining Environmental Services For BART Projects, before the Board. Mr. Robert Powers, Assistant General Manager, Planning and Development, presented the item. The item was discussed.

Director Blalock moved that the General Manager be authorized to award Agreement No. 6M8073 to Garcia and Associates and Agreement No. 6M8085 to H.T. Harvey & Associates to provide Sustaining Environmental Services for BART Projects in an amount not to exceed \$2,000,000 each, pursuant to notification to be issued by the General Manager and subject to the District's protest procedures and the FTA's requirements related to protest procedures.

Director Raburn seconded the motion which carried by unanimous electronic vote.

Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

Director McPartland brought the matter of Contract No. 15IK-120, Replacement of Motorized Station Security Access Grilles, Phase 2, Change Order #2, before the Board. Mr. Mark Pfeiffer, Group Manager Power Mechanical Engineering, presented the item. The item was discussed.

Director Blalock moved that the General Manager is authorized to execute Change Order No. 2 to Contract 15IK-120 for Replacement of Station Security Access Grilles Phase 2 with Rodan Builders, Inc., in the amount of \$1,538,000.00 for the scope of work described in Additive Bid "A". Director Fang seconded the motion which carried by unanimous electronic vote.

Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

Director Raburn, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of BART Vision Update, before the Board. Mr. Val Menotti, Group Manager, Strategic & Policy Planning and Ms. Ellen Smith, Planning Division Manager, presented the item. The item was discussed.

The following individuals addressed the Board.

Mr. Joel Ramos

Mr. Jerry Grace
Mr. David Uniman
Ms. Adina Levin

President Keller called for the General Manager's Report. Ms. Crunican reported on steps she had taken and activities and meetings she had participated in, and she reminded the Board of upcoming events.

General Manager Crunican also reported on the status of two recent Roll Call for Introductions items.

President Keller brought the matter of Board Meeting Schedule: Regular Board Meeting Start Times (including evening meetings), before the Board. The item was discussed.

The following individuals addressed the Board.

Ms. Rebecca Schneider
Mr. Jerry Grace

Director Saltzman moved that the Board would continue evening meetings on the fourth (4th) Thursday of the month, through March 2015 with the exclusion of November and December. The President of the Board has the discretion to cancel meetings as deemed appropriate giving priority to the retention of the evening meeting if appropriate. Director Raburn seconded the motion which carried by unanimous electronic vote. Ayes - 9: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Radulovich, Saltzman, and Keller. Noes - 0.

President Keller brought the matter of Minimum Service Requirement for Eligibility for Free Transportation Privileges upon Leaving Office for Newly Elected and Appointed Board Members. The item was discussed. Director Blalock moved that the minimum service requirement be two full terms as Director for free transportation pass privileges upon leaving office for Current, Newly Elected and Appointed Board members. Director Raburn seconded the motion which carried. Ayes – 5: Directors Blalock, Raburn, Radulovich, Saltzman, and Keller. Noes – 3: Directors Mallett, Mc Partland and Murray. Abstain – 1: Director Fang.

President Keller called for Board Member Reports and Roll Call for Introductions.

Director Mallett announced that he hosted Austin James, a Make A Wish Foundation candidate who was given a ride on a BART Train at the Richmond Yard. A brief video presentation followed.

Director Raburn announced that he was pleased with the internship program at BART.

Director Saltzman reported she had attended the Berkeley City Council Meeting. Director Saltzman requested an informational briefing on service planning for special events.

Director Blalock reported he had attended an artistic tile dedication ceremony for the Warm Springs project and had attended a reception for Measure BB program.

President Keller called for In Memoriam commemorations,

Director Blalock announced the loss of Natalie Slivka, Director Radulovich announced that he would like the meeting adjourned for the 22 people who died in the Moscow subway crash and President Keller announced the loss of Felicia Amey a 25 year BART employee.

President Keller called for Public Comment.

The following individuals addressed the Board.

Mr. Robert S. Allen

Mr. Jerry Grace

The Board Meeting was adjourned at 7:46 p.m. in memory of Ms. Amey, Ms. Slivka and the individuals 22 people who died in last week's Moscow subway crash.

Kenneth A. Duron
District Secretary



EXECUTIVE DECISION DOCUMENT

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| GENERAL MANAGER APPROVAL: <i>Carla DeBevoise</i> | | GENERAL MANAGER ACTION REQ'D: | | |
| DATE: c <i>8/6/14</i> | | BOARD INITIATED ITEM: <i>No</i> | | |
| Originator/Prepared by: <i>Michaela Morales</i> Dep. for Scott Schroeder, Controller/Treasurer (6079) <i>Michaela Morales</i> <i>8/4/14</i> | General Counsel <i>NP</i> <i>8/5/14</i> | Controller/Treasurer <i>[Signature]</i> <i>8/4/14</i> | District Secretary <i>[Signature]</i> <i>8/4/14</i> | BARC <i>[Signature]</i> <i>8-4-14</i> |
| Signature/Date: <i>[Signatures]</i> <i>[Dates]</i> | | | | |

TITLE:

FIXED PROPERTY TAX RATES FY 2014-15 - GENERAL OBLIGATION BONDS

NARRATIVE:

PURPOSE:

Fixing the rate of property taxes for BART in San Francisco, Alameda and Contra Costa Counties for Fiscal Year 2015 as required by Public Utilities Code Section 29126 to pay for the debt service on the District's General Obligation Bonds.

DISCUSSION:

The debt service required on the District's General Obligation Bonds for Fiscal Year 2015 is \$33,908,038.00 as determined by BART's financial staff.

The debt service tax rate required by the District for Fiscal Year 2015 is .0045 percent which equates to \$4.50 per one hundred thousand dollars of assessed valuation for the three counties within the District as determined by their Auditor-Controller's Offices.

FISCAL IMPACT:

Revenues collected on the basis of the above tax rate will be sufficient for the debt service requirements for the General Obligation Bonds for Fiscal Year 2015.

ALTERNATIVES:

None.

RECOMMENDATION:

It is recommended that the tax rate fixed for Fiscal Year 2015 be approved.

MOTION:

Adopt attached Resolution.

**BEFORE THE BOARD OF DIRECTORS OF THE
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

In The Matter of Fixing The Rate of Taxes
For San Francisco Bay Area Rapid Transit
District for Fiscal Year 2014/15

Resolution No. _____

WHEREAS, this Board desires to fix the rate of taxes for the District, for the fiscal year July 1, 2014 to June 30, 2015, and make valid assessments of property and valid levies of taxes in accordance with Public Utilities Code Section 29126; and

WHEREAS, Section 93(c) of the Revenue and Taxation Code authorizes the District to levy an ad valorem property tax in order to produce revenues in an amount equal to the amount needed to make annual payments of principal and interest on the General Obligation Bonds which were approved by over two-thirds vote of the District's voters on November 2, 2004; and

WHEREAS, this Board has determined the tax rate for the District taxes for the counties in the District for the fiscal year 2014/15 from the budget of the District for the fiscal year 2014/15 and from the values of property transmitted to this Board by County Auditors;

NOW, THEREFORE, BE IT RESOLVED that the rate of taxes of the San Francisco Bay Area Rapid Transit District, for the fiscal year July 1, 2014 to June 30, 2015, is hereby fixed at .0045 percent, which equates to \$4.50 per one hundred thousand dollars of assessed value of property, AND BE IT FURTHER RESOLVED that the Secretary shall immediately after the effective date of this resolution transmit to the County Auditor of the Counties in which the District is situated a statement of such tax rate. The effective date of this resolution is August ____, 2014.

Adopted _____



EXECUTIVE DECISION DOCUMENT

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|--|--|---|---------------------------|--|
| GENERAL MANAGER APPROVAL: <i>James Bridgeman</i> | | GENERAL MANAGER ACTION REQ'D: | | |
| DATE: 8/6/14 | | BOARD INITIATED ITEM: No | | |
| Originator/Prepared by: James Bridgeman Dept: James R Bridgeman Signature/Date: 8/6/14 | General Counsel <i>Mark Henry</i> 8/6/14 [] | Controller/Treasurer <i>[Signature]</i> [] | District Secretary [] | BARC <i>[Signature]</i> 8/6/14 [] |
| Status: Routed | | Date Created: 07/29/2014 | | |

TITLE: SMALL BUSINESS BONDING ASSISTANCE PROGRAM – CREATION OF COLLATERAL POOL AND RISK MITIGATION

NARRATIVE:

PURPOSE: To obtain Board authorization for the Controller/Treasurer to create a Collateral Pool to support the Small Business Bonding Assistance Program (“SBBAP”) and to authorize the Controller/Treasurer to fund the Third-Party Funds Administration Program (“TPFAP”) to mitigate the risk of contractor default. The amount of the Collateral Pool will not exceed three million dollars (\$3,000,000) with an option to increase it to five million dollars (\$5,000,000) at the discretion of the Controller/Treasurer. The TPFAP will be funded at a cost not to exceed one percent (1%) of the amounts of the bonds issued.

DISCUSSION: On December 5, 2013, the Board authorized the award of Agreement No. 6M4284 to Merriwether & Williams Insurance Services (Merriwether) for the implementation of a SBBAP. In developing the SBBAP, the Board recognized that one of the impediments to allowing small businesses to bid on BART’s public works contracts is the ability to qualify for the required bonding. The SBBAP helps small contractors meet eligibility requirements for being bonded. By creating a Collateral Pool, the District supports the issuance of bonds from participating surety companies. The TPFAP provides safeguards to make certain that claims on the bonds do not occur. The actions to be authorized by this EDD represent the next step in the development of the SBBAP.

With the Board's authorization, the District will establish a Collateral Pool to support the issuance of bonds by surety companies agreeing to participate in the SBBAP. The Collateral Pool will be in the form of either Letters of Credit issued by the District’s selected bank to participating sureties or the pledging of an amount of the District’s General Fund as security guaranteeing a portion of bonds issued under the SBBAP. The Controller/Treasurer will determine at the time the collateral is required whether a Letter of Credit or a separate bank account is more advantageous to the District. The Collateral Pool will be established in the amount of three million dollars (\$3,000,000) with an option to increase it to five million dollars (\$5,000,000), if necessary, based on the activity and success of the SBBAP. The District’s commitment to the surety will be provided by the Collateral Pool concurrent with the SBBAP bond transaction. The Collateral Pool would only be drawn upon in the event of a default in the performance of the contract and a bond claim. The Controller/Treasurer or his designee will approve each transfer of a security interest. BART will limit the collateral provided for any single bond to either seven hundred and fifty thousand dollars (\$750,000) or forty percent (40%) of the bond amount whichever is less. This limitation will allow more firms to participate in the SBBAP and to allow the District to meet its objectives without exposing it to excessive risk on any single bond.

In order to minimize the risk of a default or bond claim and protect the District's funds from claims, the TPFAP is also being established as a key part of the SBBAP. The TPFAP provides significant risk mitigation by providing a funds administration service that disburses payments to subcontractors and suppliers directly from the District or a prime contractor. The majority of bond claims occur not from a failure to perform under the contract, but the failure to pay all of the contractor's subcontractors and suppliers. The TPFAP Administrator to be selected by the District makes certain that subcontractors and suppliers are paid so that claims are not made under the SBBAP bonds. If, despite these efforts, a claim were to occur under the SBBAP, the surety would collect funds from the Collateral Pool, pay legitimate payment defaults (to subcontractors or suppliers) or cure performance defaults. It is helpful to note that the programs administered by Merriwether & Williams for other agencies have suffered only one (1) default in 17 years and 857 transactions.

The SBBAP supports the efforts of the District as led by the Office of Civil Rights to create additional opportunities for small businesses. Contractors qualifying for the District's Small Business and DBE programs are likely to benefit from the SBBAP.

FISCAL IMPACT: The District will create a Collateral Pool to support issuance of bonds under its SBBAP. The Collateral Pool will consist of either Letters of Credit issued by the District's bank or a separate bank account to be created with funds out of the District's General Fund. The estimated cost of the Letter of Credit will be one percent (1%) of the face amount per year. For the initial Collateral Pool of three million dollars (\$3,000,000), the annual cost will be thirty thousand dollars (\$30,000) to be funded out of the Risk and Insurance Department's professional services account. Use of a separate bank account will require the District to transfer a portion of its working capital to the new bank account. The Controller/Treasurer will determine which form of security will be most advantageous to the District.

If a claim is paid out of the Collateral Pool, the payment will be recognized as an operating expense and paid out of the General Fund.

The SBBAP's TPFAP will be funded out of the Risk and Insurance Department's professional services account in the amount of one percent (1%) of the value of bonds issued.

ALTERNATIVES: One alternative is to not approve the motion; however, it will not be possible to develop the SBBAP without creating a collateral pool to support issuance of the bonds and a TPFAP to prevent losses.

RECOMMENDATION: Adopt the following motion:

MOTION: The Controller/Treasurer is authorized to establish a Collateral Pool to support the issuance of bonds under its Small Business Bonding Assistance Program in an amount not to exceed three million dollars (\$3,000,000) and is authorized to exercise an option to increase it to five million dollars (\$5,000,000). Collateral provided for any bond will not exceed forty percent (40%) of the bond amount or seven hundred and fifty thousand dollars (\$750,000) whichever is less. The Controller/Treasurer is further authorized to establish a Third-Party Funds Administration Program at a cost not to exceed one percent (1%) of the amount of bonds issued.



EXECUTIVE DECISION DOCUMENT

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|---|---|--|---------------------------|--|
| GENERAL MANAGER APPROVAL: <i>[Signature]</i> | | GENERAL MANAGER ACTION REQ'D: | | |
| DATE: 8/6/14 | | BOARD INITIATED ITEM: No | | |
| Originator/Prepared by: James Bridgeman Dept: Risk & Insurance <i>[Signature]</i> Signature/Date: 8/4/14 | General Counsel <i>[Signature]</i> 8/4/14 [] | Controller/Treasurer <i>[Signature]</i> [] | District Secretary [] | BARC <i>[Signature]</i> 8/4/14 [] |
| Status: Routed | | Date Created: 07/28/2014 | | |

TITLE:

**EXTENSION OF TIME OF PERFORMANCE FOR AGREEMENT 6M2020
BROKERAGE SERVICES FOR AN OWNER CONTROLLED INSURANCE PROGRAM
(OCIP)**

NARRATIVE:

PURPOSE: To obtain Board authorization for the Controller/Treasurer to extend the time of performance under Agreement 6M2020 Brokerage Services for an Owner Controlled Insurance Program (OCIP) with Aon Risk Services, Inc. for an additional two years to November 30, 2016.

DISCUSSION: The OCIP provides coordinated insurance, safety, and claims management services to all contractors working on major BART projects. The District uses OCIPs to provide cost effective insurance and risk management services for these construction projects including the Earthquake Safety Program (ESP), the Warm Springs Extension (WSX), and the Oakland Airport Connector (OAC). By providing insurance to all contractors working on these projects, the OCIP removes barriers and increases the participation of small and local contractors. The OCIP has made a major contribution in supporting the District's efforts to increase diversity in the award of construction contracts.

On October 22, 2009, the Board approved Agreement 6M2020 for Aon and its subcontractors (including JLA Insurance Agency and Merriwether and Williams Insurance Services) to provide OCIP services to West Dublin Station (WDS), WSX, and OAC in an amount not to exceed \$7,500,000. This Agreement 6M2020 expires on November 30, 2014. As of June 30, 2014, \$3,822,459 had been expended under Agreement 6M2020 leaving \$3,677,541 available. The funds already authorized under Agreement No. 6M2020 will be sufficient to provide OCIP services for the projects listed above as well as for the Earthquake Safety Program (ESP), the Professional Liability Insurance Program (PLIP), and the Hayward Maintenance Complex (HMC) for an additional two years.

This extension of the time of performance is warranted by the substantial savings to the District arising out of the success of the OCIP in reducing risk costs for the District's major projects. The most important OCIP service provided is safety management. OCIP safety personnel assist District contractors in the development and implementation of enhanced safety programs. The safety services provided under these Agreements have resulted in exceptionally low accident rates with over \$20 million in savings from reduced claims that would not be possible without the OCIP.

When this Agreement was originally awarded pursuant to the DBE Program, the Office of Civil Rights utilized race and gender neutral efforts for professional service contracts. Although no DBE goal was set for this Agreement, Aon proposed 30.3% DBE Participation. The actual DBE participation achieved through June 30, 2014 is 50.81% reflecting Aon's support of the District's diversity goals.

A new contract will be advertised and competed at the expiration of this time extension.

FISCAL IMPACT: Agreement No. 6M2020 was authorized in an amount not to exceed \$7,500,000. Of that amount \$3,677,541 remains unspent as of May 31, 2014. District obligations under this Agreement will be subject to a series of Annual Work Plans (AWPs). Each AWP will have a defined scope of services and a separate schedule and budget. Any AWP funded under a State or Federal grant will include all necessary requirements. Capital Development and Control will certify the eligibility of identified funding sources and the Controller/Treasurer will certify availability of such funding prior to incurring project costs against the Agreement. Funding for individual AWP's will be provided from Capital Budget accounts as evidenced by the issuance of related work orders.

ALTERNATIVES: The alternative is to issue a request for proposals for these OCIP services or to discontinue the OCIP.

RECOMMENDATION: Adopt the following motion:

MOTION: The Controller/Treasurer is authorized to extend the time of performance under Agreement 6M2020 with Aon Risk Services to provide OCIP services for an additional two years to November 30, 2016. The original not to exceed amount for the Agreement remains at \$7,500,000.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
MEMORANDUM**

TO: Board of Directors

DATE: August 8, 2014

FROM: Controller-Treasurer

RE: Financial Stability Policy: Reserve for Economic Uncertainty-For Discussion

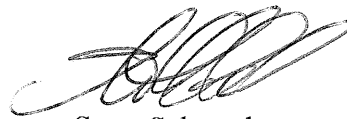
This memo is in response to several Directors' request for information about revising the Financial Stability Policy's (Policy) strategy for ensuring there is a prudent reserve for economic uncertainty. The Policy, adopted in 2003, calls for BART to build the reserve to at least 5% of total annual operating expenses by funding regular contributions to the reserve.

Five percent is substantially less than the actual amount of funds expended by the District's operating and capital budget each month. Therefore, the Office of the Controller-Treasurer suggests the reserve fund be increased from 5% of total annual operating expenses (currently \$33 million) to 8% of total annual operating and capital expenses (\$109 million for the FY15 budget). This approach, based upon annual budgeted operating expenses (excluding allocations and special items) plus budgeted capital expenditures divided by twelve, yields an annual reserve fund goal which would vary with each year's budget and would be more closely aligned with the District's financial condition.

The Office of the Controller-Treasurer also recommends an automatic funding mechanism for the reserve fund. The mechanism follows industry "best practices" and would require the operating budget to fund 5% of the unfunded reserve fund balance at the beginning of each fiscal year until the reserve fund is completely funded. Exceptions to this are fiscal years in which a budget deficit is projected. If the amount of available funding in the budget is insufficient to appropriate the entire 5% without resulting in a deficit, only the amount available would be funded.

The fiscal impact of implementing this approach would be an additional operating budget allocation of approximately \$3 to \$4 million each year until the reserve is fully funded. The actual annual allocation would vary depending on the total operating and capital expenses and the unfunded reserve balance.

The reserves would be accessed only under the need for either emergency funding in the event of a major adverse natural event or supplementing the budget due to an economic downturn when no other funding options are available. Either action requires a Board resolution supported by a majority of the Board.



Scott Schroeder

cc: General Manager
Board Appointed Officers
Deputy General Manager
Executive Staff

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
MEMORANDUM**

TO: Board of Directors

DATE: August 8, 2014

FROM: Controller-Treasurer

RE: Risk Management Insurance Premiums-For Discussion

In order to effectively protect BART's assets, which are currently valued at \$21 billion, the District purchases insurance. Over the past fifteen years, the amount of funds budgeted by BART for insurance premium expense has decreased from 2% of fare revenue to approximately 1.1% of fare revenue.

Periodic studies and comparisons between BART and similar rail transit properties regarding levels of insurance reveal that the District is carrying less liability and property coverage than other similar properties. This places the District in a position of essentially self-insuring against major losses.

To allow BART to develop an insurance program that addresses the specific risk management needs of the District while benchmarking BART's program against those of our peers in the rail transit industry, the Office of the Controller-Treasurer suggests that the funding floor for annual insurance premiums be set at a fixed value of 1.5% of annual fare revenue. This would allow for more effective protection for the District against a sudden catastrophic loss.

Additional insurance premium funding requests have been submitted for consideration in recent budget cycles, without success. In order to ensure adequate funding, a potential option is to have an automatic budget allocation each year equal to 1.5% of fare revenue. For FY15, this would result in an insurance premium budget of \$6.6 million (1.5% of \$440 million annual fare revenue), \$1.9 million greater than the current \$4.7 million budget. In future years, the insurance premium budget will be adjusted annually to equal no less than 1.5% of annual budgeted fare revenue. Based upon current fare revenue projections, insurance premium expenses could be expected to increase to approximately \$9.5 million in ten years.

If the insurance premium budget remains as is, the District will continue to under fund its risk management program and carry the substantial risk of self-funding major losses.


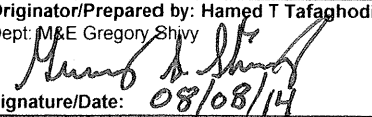
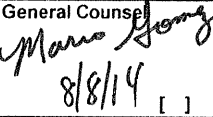
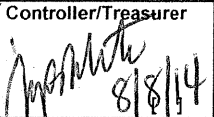
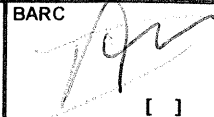


Scott Schroeder

cc: General Manager
Board Appointed Officers
Deputy General Manager
Executive Staff



EXECUTIVE DECISION DOCUMENT

| | | | | |
|--|--|--|---------------------------|--|
| GENERAL MANAGER APPROVAL:  | | GENERAL MANAGER ACTION REQ'D: Approve and forward to August 14, 2014 E&O Committee Meeting | | |
| DATE: <u>8/8/14</u> | | BOARD INITIATED ITEM: No | | |
| Originator/Prepared by: Hamed T Tafaghodi Dept: M&E Gregory Shivy  Signature/Date: <u>08/08/14</u> | General Counsel  8/8/14 [] | Controller/Treasurer  8/8/14 [] | District Secretary [] | BARC  [] |

TITLE:

CHANGE ORDER TO EXTEND CONTRACT NO. 15CQ-201, PROCUREMENT OF DIRECT FIXATION RAIL FASTENERS

NARRATIVE:

PURPOSE:

To request Board authorization for the General Manager to issue a Change Order for a 5 year extension to Contract No. 15CQ-201 for the Procurement of Direct Fixation Rail Fasteners originally awarded in September 2009 to L.B. Foster Company of Pittsburg, Pennsylvania.

DISCUSSION:

Direct Fixation Rail Fasteners are a composite steel and rubber component that holds the rail to the concrete subway and aerial track structures. The District has approximately 345,000 of these fasteners that are 40 years of age.

In September 2009, the Board authorized award of this indefinite Procurement Contract with an initial term of five years starting from September 17, 2009, with a maximum potential value of \$15,245,857.70 not including applicable sales taxes. To date, four Notices to Proceed (NTP) have been issued, procuring 50,344 Direct Fixation Rail Fasteners, totaling \$4,705,616.26, leaving a balance of \$10,540,241.44. The base Contract will expire on September 16, 2014. The Contract included an Option for the District to extend the Contract for an additional five years. However, due to a large amount of turnover, and loss of continuity in staff, the time to exercise the Option expired. Staff is now returning to the Board to seek authority to issue a Change Order to extend the Contract for an additional five years. The Supplier has confirmed that it is willing to honor the same terms as the Contract Option. The Change Order will add more time to the Contract, but no additional money.

This Contract provides the District with flexibility to order materials and spare parts on an as needed basis to supply its capially funded rail fastener replacement program. Currently a new order is planned for approximately 10,000 rail fasteners for an estimated cost of \$1.0 Million, including applicable sales taxes. This Contract is not exclusive and in no way limits future procurement of these materials from other sources. The Contract includes prices for spare parts so that future District needs can be met. Continuation of this multi-year Contract minimizes the number of different parts the District is required to stock for maintenance replacements. In addition, it provides the District with identical rail fasteners supplied by the same manufacturer at

a competitive price. The Contract includes provisions for price adjustments for commodities, labor, and shipping.

By issuing a Change Order to extend the Contract, the District benefits from the above described features of this Contract.

The Office of General Council will review and approve the Change Order as to form prior to execution.

The Procurement Department will review the Change Order prior to execution for compliance with Procurement guidelines.

FISCAL IMPACT:

There is no additional fiscal impact to extend the Contract for five years.

Per the terms of the original Contract authorization, any further orders of rail fasteners are subject to authorization from the General Manager and certification of funding availability by the Office of the Controller/Treasurer.

ALTERNATIVE:

Do not extend the Contract and re-bid another multi-year contract. Staff estimates that this alternative would require an additional 6 months to 1 year to award another contract. This alternative would delay the District from meeting its maintenance objectives of replacing rail fasteners consistent with its Track Safety Standards.

RECOMMENDATIONS:

It is recommended that the Board adopt the following motion:

MOTION:

The General Manager is authorized to issue a Change Order to extend the term of the Contract No. 15CQ-201 for the Procurement of Direct Fixation Rail Fasteners to L.B. Foster Company of Pittsburg, Pennsylvania until September 17, 2019.



EXECUTIVE DECISION DOCUMENT

| | | | | |
|--|---|--|---------------------------|--|
| GENERAL MANAGER APPROVAL <i>[Signature]</i> | | GENERAL MANAGER ACTION REQ'D: Yes | | |
| DATE: c 8/6/14 | | BOARD INITIATED ITEM: No | | |
| Originator/Prepared by: Maureen Wetter Dept: Marketing and Research <i>[Signature]</i> Signature/Date: 8/4/14 | General Counsel <i>[Signature]</i> 8/5/14 | Controller/Treasurer <i>[Signature]</i> | District Secretary [] | BARC <i>[Signature]</i> 8/4/14 [] |

TITLE:

Authorize the General Manager to Execute Funding Agreement with the Metropolitan Transportation Commission for BART Station Profile Survey

NARRATIVE:

PURPOSE:

To obtain Board authorization for the General Manager to execute a funding agreement (the "Agreement") with the Metropolitan Transportation Commission (MTC) to commit budgeted funds allocated for BART's Station Profile Survey (the "Survey") to MTC for the purpose of conducting the Survey as a joint project.

DISCUSSION:

Following adoption of MTC's Transit Sustainability Project, MTC initiated a regional program of transit passenger data collection to satisfy Title VI equity reporting requirements and to refine regional planning and analysis tools. MTC intends to collect representative transit passenger data approximately every five years and to share survey costs with operators. Much of the data that MTC requires, such as access/egress modes and passenger demographics, is also required by BART for planning and reporting purposes.

BART last collected detailed station-level survey data more than six years ago as part of its 2008 Station Profile Survey. BART intends to update these data through the proposed joint project. The results will be used to inform current and future services, initiatives, and investments, including Transit-Oriented Development and Customer Access programs, as well as facilitate demographic analyses as required by Title VI.

MTC and BART staff members have worked together over the past year to select a survey consultant. The consultant proposes an approach involving personal interviews using tablet computers, a methodology recommended by the FTA for its inclusiveness and high response rates. A pre-test was conducted by MTC in June 2014, and the methodology was determined to be viable. While the tablet computer methodology is more expensive than Station Profile survey methods BART has used previously, the cost to BART for the MTC survey will be comparable to costs for previous BART Station Profile surveys because of MTC's participation in the funding of the new survey. Moreover, the new methodology appears to produce higher response rates, better geocoding of addresses, and less respondent confusion about the detailed questions and

branching required for this kind of survey. MTC is targeting Fall 2014 to begin the survey.

The Office of the General Counsel will approve the Agreement as to form.

FISCAL IMPACT:

The required funding is proposed to be provided from FY15 operating funds allocated for this purpose. Note that these funds were initially allocated in FY14, but were rolled over to FY15 due to scheduling constraints. The total available balance is \$480,000.

For this initial joint survey, MTC has committed to funding 80% of a survey of approximately 30,000 passengers with a total cost of \$993,530. BART's 20% share would be \$198,706.

This survey would assure a minimum station sample size of 545 completed surveys among people waiting on station platforms. BART staff has determined, however, that a larger minimum sample size is required to be able to identify station-specific changes over time with greater confidence. The entire cost of the additional surveys would be borne by BART. Increasing the minimum sample size to approximately 800 surveys per station would require an estimated additional \$229,186 in BART funds, which includes a 5% contingency.

After funding BART's 20% share and the additional sample, the remaining balance of \$52,108 would be designated as contingency funds which could support additional data collection and/or analysis if needed.

ALTERNATIVES:

To not approve this request to conduct the survey as a joint project with MTC, but rather conduct it independently at a future date using the methodology BART has used previously. While this alternative would provide slightly higher sample sizes, it would not take advantage of this opportunity for regional cooperation and likely improvements in data quality.

RECOMMENDATION:

Approval of the following motion.

MOTION:

That the General Manager or her designee be authorized to execute a Funding Agreement with MTC for a joint BART Station Profile Survey, with BART to contribute an amount not to exceed \$427,892.00.

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

INTER-OFFICE COMMUNICATION

TO: Board of Directors **Date:** August 6, 2014
FROM: Controller-Treasurer
SUBJECT: QUARTERLY REPORT OF THE CONTROLLER-TREASURER

Attached is a copy of the Quarterly Report - 4th Quarter FY 2014 of the Controller-Treasurer which I will be presenting to you at the August 14th Board meeting. This will give you an opportunity to review it prior to the meeting.

Please feel free to call me at 510-464-6070 with any questions you may have.



Scott L. Schroeder

cc: Board Appointed Officers
Deputy General Manager
Executive Staff

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Memorandum

TO: Board of Directors

DATE: August 8, 2014

FROM: General Manager

SUBJECT: Consideration of Support Position for AB 2493 (Bloom)

Assembly Bill 2493 (Bloom), presently moving through the State Legislature, could assist BART's efforts in Union City (and possibly other communities where BART has been involved with redevelopment agencies) by helping to finance important Transit Oriented Development (TOD) or other infrastructure improvements.

As you know, redevelopment agencies (RDA) were eliminated by the Legislature and Governor in 2011, with certain provisions being made retroactive to the beginning of that year. Because of the plethora of additional projects that were initiated at the time to take advantage of the soon-to-be dissolved RDA process, the Department of Finance took the position that subsequent successor agencies could not spend proceeds from bonds if they were sold in the first half of 2011.

The City of Union City has informed BART that it needs to be able to spend these bond monies (totaling \$24.5 million) in order to complete the intermodal projects around the Union City BART station. AB 2493 would allow successor agencies to use the 2011 bonds for TOD and other projects, if they were already planned prior to 2011 and if they are consistent with the sustainable communities strategy adopted by its metropolitan planning organization (the Metropolitan Transportation Commission in the Bay Area) pursuant to SB 375. The Union City project would qualify under these provisions.

Concern has been expressed that this bill may enable a range of questionable projects to be financed. However, provisions to safeguard against this are:

- First, the projects must be consistent with the sustainable communities strategies, as mentioned above;
- Second, any project must show that it was initiated and in development before January 2011; and
- Third, the author is presently negotiating an amendment to get this bill off the "Suspense File" in the Senate Appropriations Committee that would give the Department of Finance greater scrutiny over which projects might be approved to use these funds. We should know whether the amendment was accepted by August 14.

BART staff recommends that the BART Board support this bill and weigh in during this last month of the legislative session to make that position known. For your consideration, attached is a copy of the latest amended version of AB 2493, a fact sheet on AB 2493 from the Office of Assemblymember Richard Bloom as well as a policy committee analysis.


Grace Crunican

cc: Board Appointed Officers
Deputy General Manager
Executive Staff
Roddrick Lee
Paul Fadelli

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2493

Introduced by Assembly Member Bloom

(Coauthors: Assembly Members Achadjian, Alejo, Brown, Lowenthal, Mullin, V. Manuel Pérez, Nestande, Skinner, and Waldron)

(Coauthor: Senator Lara)

February 21, 2014

An act to amend Sections 34176 and 34191.4 of the Health and Safety Code, relating to community redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2493, as amended, Bloom. Redevelopment dissolution: housing projects: bond proceeds.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law provides for the transfer of housing assets and functions previously performed by the dissolved redevelopment agency to one of several specified public entities. Existing law authorizes the successor housing entity to

designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to January 1, 2011, and was backed by the Low and Moderate Income Housing Fund.

This bill would instead authorize a successor housing entity to designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to June 28, 2011, and would require the proceeds from bonds issued between January 1, 2011, and June 28, 2011, be used for projects meeting certain criteria established in this bill for projects, to be funded by successor agencies generally, from proceeds of bonds issued during the same period.

Existing law authorizes the Department of Finance to issue a finding of completion to a successor agency that completes a due diligence review and meets other requirements. Upon receiving a finding of completion, a successor agency is authorized to expend excess bond proceeds derived from bonds issued on or before December 31, 2010, in a manner consistent with the original bond covenants.

The bill would expand this authorization to include the expenditure of excess bond proceeds derived from bonds issued on or before June 28, 2011, and would require proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, to be used by successor agencies only for projects meeting certain criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34176 of the Health and Safety Code is
2 amended to read:
3 34176. (a) (1) The city, county, or city and county that
4 authorized the creation of a redevelopment agency may elect to
5 retain the housing assets and functions previously performed by
6 the redevelopment agency. If a city, county, or city and county
7 elects to retain the authority to perform housing functions
8 previously performed by a redevelopment agency, all rights,
9 powers, duties, obligations, and housing assets, as defined in
10 subdivision (e), excluding any amounts on deposit in the Low and
11 Moderate Income Housing Fund and enforceable obligations
12 retained by the successor agency, shall be transferred to the city,
13 county, or city and county.

1 (2) The housing successor shall submit to the Department of
2 Finance by August 1, 2012, a list of all housing assets that contains
3 an explanation of how the assets meet the criteria specified in
4 subdivision (e). The Department of Finance shall prescribe the
5 format for the submission of the list. The list shall include assets
6 transferred between February 1, 2012, and the date upon which
7 the list is created. The department shall have up to 30 days from
8 the date of receipt of the list to object to any of the assets or
9 transfers of assets identified on the list. If the Department of
10 Finance objects to assets on the list, the housing successor may
11 request a meet and confer process within five business days of
12 receiving the department objection. If the transferred asset is
13 deemed not to be a housing asset as defined in subdivision (e), it
14 shall be returned to the successor agency and the provision of
15 Section 34178.8 may apply. If a housing asset has been previously
16 pledged to pay for bonded indebtedness, the successor agency shall
17 maintain control of the asset in order to pay for the bond debt.

18 (3) For purposes of this section and Section 34176.1, "housing
19 successor" means the entity assuming the housing function of a
20 former redevelopment agency pursuant to this section.

21 (b) If a city, county, or city and county does not elect to retain
22 the responsibility for performing housing functions previously
23 performed by a redevelopment agency, all rights, powers, assets,
24 duties, and obligations associated with the housing activities of
25 the agency, excluding enforceable obligations retained by the
26 successor agency and any amounts in the Low and Moderate
27 Income Housing Fund, shall be transferred as follows:

28 (1) If there is no local housing authority in the territorial
29 jurisdiction of the former redevelopment agency, to the Department
30 of Housing and Community Development.

31 (2) If there is one local housing authority in the territorial
32 jurisdiction of the former redevelopment agency, to that local
33 housing authority.

34 (3) If there is more than one local housing authority in the
35 territorial jurisdiction of the former redevelopment agency, to the
36 local housing authority selected by the city, county, or city and
37 county that authorized the creation of the redevelopment agency.

38 (c) Commencing on the operative date of this part, the housing
39 successor may enforce affordability covenants and perform related
40 activities pursuant to applicable provisions of the Community

1 Redevelopment Law (Part 1 (commencing with Section 33000)),
2 including, but not limited to, Section 33418.

3 (d) Except as specifically provided in Section 34191.4, any
4 funds transferred to the housing successor, together with any funds
5 generated from housing assets, as defined in subdivision (e), shall
6 be maintained in a separate Low and Moderate Income Housing
7 Asset Fund which is hereby created in the accounts of the housing
8 successor.

9 (e) For purposes of this part, “housing asset” includes all of the
10 following:

11 (1) Any real property, interest in, or restriction on the use of
12 real property, whether improved or not, and any personal property
13 provided in residences, including furniture and appliances, all
14 housing-related files and loan documents, office supplies, software
15 licenses, and mapping programs, that were acquired for low- and
16 moderate-income housing purposes, either by purchase or through
17 a loan, in whole or in part, with any source of funds.

18 (2) Any funds that are encumbered by an enforceable obligation
19 to build or acquire low- and moderate-income housing, as defined
20 by the Community Redevelopment Law (Part 1 (commencing with
21 Section 33000)) unless required in the bond covenants to be used
22 for repayment purposes of the bond.

23 (3) Any loan or grant receivable, funded from the Low and
24 Moderate Income Housing Fund, from homebuyers, homeowners,
25 nonprofit or for-profit developers, and other parties that require
26 occupancy by persons of low or moderate income as defined by
27 the Community Redevelopment Law (Part 1 (commencing with
28 Section 33000)).

29 (4) Any funds derived from rents or operation of properties
30 acquired for low- and moderate-income housing purposes by other
31 parties that were financed with any source of funds, including
32 residual receipt payments from developers, conditional grant
33 repayments, cost savings and proceeds from refinancing, and
34 principal and interest payments from homebuyers subject to
35 enforceable income limits.

36 (5) A stream of rents or other payments from housing tenants
37 or operators of low- and moderate-income housing financed with
38 any source of funds that are used to maintain, operate, and enforce
39 the affordability of housing or for enforceable obligations
40 associated with low- and moderate-income housing.

1 (6) (A) Repayments of loans or deferrals owed to the Low and
2 Moderate Income Housing Fund pursuant to subparagraph (G) of
3 paragraph (1) of subdivision (d) of Section 34171, which shall be
4 used consistent with the affordable housing requirements in the
5 Community Redevelopment Law (Part 1 (commencing with
6 Section 33000)).

7 (B) Loan or deferral repayments shall not be made prior to the
8 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the
9 maximum repayment amount authorized each fiscal year for
10 repayments made pursuant to this paragraph and subdivision (b)
11 of Section 34191.4 combined shall be equal to one-half of the
12 increase between the amount distributed to taxing entities pursuant
13 to paragraph (4) of subdivision (a) of Section 34183 in that fiscal
14 year and the amount distributed to taxing entities pursuant to that
15 paragraph in the 2012–13 base year. Loan or deferral repayments
16 made pursuant to this paragraph shall take priority over amounts
17 to be repaid pursuant to subdivision (b) of Section 34191.4.

18 (f) If a development includes both low- and moderate-income
19 housing that meets the definition of a housing asset under
20 subdivision (e) and other types of property use, including, but not
21 limited to, commercial use, governmental use, open space, and
22 parks, the oversight board shall consider the overall value to the
23 community as well as the benefit to taxing entities of keeping the
24 entire development intact or dividing the title and control over the
25 property between the housing successor and the successor agency
26 or other public or private agencies. The disposition of those assets
27 may be accomplished by a revenue-sharing arrangement as
28 approved by the oversight board on behalf of the affected taxing
29 entities.

30 (g) (1) (A) The housing successor may designate the use of
31 and commit indebtedness obligation proceeds that remain after the
32 satisfaction of enforceable obligations that have been approved in
33 a Recognized Obligation Payment Schedule and that are consistent
34 with the indebtedness obligation covenants. The proceeds shall be
35 derived from indebtedness obligations that were issued for the
36 purposes of affordable housing prior to June 28, 2011. Bond
37 proceeds derived from bonds issued between January 1, 2011, and
38 June 28, 2011, shall only be used for projects that meet the criteria
39 set forth in subparagraph (A) or (B) of paragraph (1) of subdivision
40 (c) of Section 34191.4. Enforceable obligations may be satisfied

1 by the creation of reserves for the projects that are the subject of
2 the enforceable obligation that are consistent with the contractual
3 obligations for those projects, or by expending funds to complete
4 the projects.

5 (B) The housing successor shall provide notice to the successor
6 agency of any designations of use or commitments of funds
7 specified in subparagraph (A) that it wishes to make at least 20
8 days before the deadline for submission of the Recognized
9 Obligation Payment Schedule to the oversight board. Commitments
10 and designations shall not be valid and binding on any party until
11 they are included in an approved and valid Recognized Obligation
12 Payment Schedule. The review of these designations and
13 commitments by the successor agency, oversight board, and
14 Department of Finance shall be limited to a determination that the
15 designations and commitments are consistent with bond covenants
16 and that there are sufficient funds available.

17 (2) Funds shall be used and committed in a manner consistent
18 with the purposes of the Low and Moderate Income Housing Asset
19 Fund. Notwithstanding any other law, the successor agency shall
20 retain and expend the excess housing obligation proceeds at the
21 discretion of the housing successor, provided that the successor
22 agency ensures that the proceeds are expended in a manner
23 consistent with the indebtedness obligation covenants and with
24 any requirements relating to the tax status of those obligations.
25 The amount expended shall not exceed the amount of indebtedness
26 obligation proceeds available and such expenditure shall constitute
27 the creation of excess housing proceeds expenditures to be paid
28 from the excess proceeds. Excess housing proceeds expenditures
29 shall be listed separately on the Recognized Obligation Payment
30 Schedule submitted by the successor agency.

31 (h) This section shall not be construed to provide any stream of
32 tax increment financing.

33 ~~SEC. 2. Section 34191.4 of the Health and Safety Code is~~
34 ~~amended to read:~~

35 ~~34191.4. The following provisions shall apply to any successor~~
36 ~~agency that has been issued a finding of completion by the~~
37 ~~Department of Finance:~~

38 ~~(a) All real property and interests in real property identified in~~
39 ~~subparagraph (C) of paragraph (5) of subdivision (e) of Section~~
40 ~~34179.5 shall be transferred to the Community Redevelopment~~

1 Property Trust Fund of the successor agency upon approval by the
2 Department of Finance of the long-range property management
3 plan submitted by the successor agency pursuant to subdivision
4 (b) of Section 34191.7 unless that property is subject to the
5 requirements of any existing enforceable obligation.

6 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
7 application by the successor agency and approval by the oversight
8 board, loan agreements entered into between the redevelopment
9 agency and the city, county, or city and county that created by the
10 redevelopment agency shall be deemed to be enforceable
11 obligations provided that the oversight board makes a finding that
12 the loan was for legitimate redevelopment purposes.

13 (2) If the oversight board finds that the loan is an enforceable
14 obligation, the accumulated interest on the remaining principal
15 amount of the loan shall be recalculated from origination at the
16 interest rate earned by funds deposited into the Local Agency
17 Investment Fund. The loan shall be repaid to the city, county, or
18 city and county in accordance with a defined schedule over a
19 reasonable term of years at an interest rate not to exceed the interest
20 rate earned by funds deposited into the Local Agency Investment
21 Fund. The annual loan repayments provided for in the recognized
22 obligations payment schedules shall be subject to all of the
23 following limitations:

24 (A) Loan repayments shall not be made prior to the 2013-14
25 fiscal year. Beginning in the 2013-14 fiscal year, the maximum
26 repayment amount authorized each fiscal year for repayments
27 made pursuant to this subdivision and paragraph (7) of subdivision
28 (e) of Section 34176 combined shall be equal to one-half of the
29 increase between the amount distributed to the taxing entities
30 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
31 that fiscal year and the amount distributed to taxing entities
32 pursuant to that paragraph in the 2012-13 base year. Loan or
33 deferral repayments made pursuant to this subdivision shall be
34 second in priority to amounts to be repaid pursuant to paragraph
35 (7) of subdivision (c) of Section 34176.

36 (B) Repayments received by the city, county or city and county
37 that formed the redevelopment agency shall first be used to retire
38 any outstanding amounts borrowed and owed to the Low and
39 Moderate Income Housing Fund of the former redevelopment
40 agency for purposes of the Supplemental Educational Revenue

1 ~~Augmentation Fund and shall be distributed to the Low and~~
2 ~~Moderate Income Housing Asset Fund established by subdivision~~
3 ~~(d) of Section 34176.~~

4 ~~(C) Twenty percent of any loan repayment shall be deducted~~
5 ~~from the loan repayment amount and shall be transferred to the~~
6 ~~Low and Moderate Income Housing Asset Fund, after all~~
7 ~~outstanding loans from the Low and Moderate Income Housing~~
8 ~~Fund for purposes of the Supplemental Educational Revenue~~
9 ~~Augmentation Fund have been paid.~~

10 ~~(e) (1) Bond proceeds derived from bonds issued on or before~~
11 ~~June 28, 2011, shall be used for the purposes for which the bonds~~
12 ~~were sold.~~

13 ~~(A) Bond proceeds derived from bonds issued between January~~
14 ~~1, 2011, and June 28, 2011, shall only be used for projects which~~
15 ~~meet the following criteria, as determined by a resolution issued~~
16 ~~by the oversight board:~~

17 ~~(i) The project shall be consistent with the applicable regional~~
18 ~~sustainable communities strategy or alternative planning strategy~~
19 ~~adopted pursuant to Section 65080 of the Government Code that~~
20 ~~the State Air Resources Board has determined would, if~~
21 ~~implemented, achieve the greenhouse gas emission reduction~~
22 ~~targets established by the board or, if a sustainable communities~~
23 ~~strategy is not required for a region by law, a regional~~
24 ~~transportation plan that includes programs and policies to reduce~~
25 ~~greenhouse gas emissions.~~

26 ~~(ii) Two or more significant planning or implementation actions~~
27 ~~shall have occurred on or before December 31, 2010. The term~~
28 ~~“significant planning and implementation actions” means any of~~
29 ~~the following:~~

30 ~~(I) An action approved by the governing body of the city,~~
31 ~~county, city and county, the board of the former redevelopment~~
32 ~~agency, or the planning commission directly related to the planning~~
33 ~~or implementation of the project.~~

34 ~~(II) The project is included within an approved city, county,~~
35 ~~city and county, or redevelopment agency planning document,~~
36 ~~including, but not limited to, a redevelopment agency five-year~~
37 ~~implementation plan, capital improvement plan, master plan, or~~
38 ~~other planning document.~~

39 ~~(III) The expenditure by the city, county, city and county, or~~
40 ~~project sponsor, of more than twenty-five thousand dollars~~

1 (~~\$25,000~~) on planning related activities for the project within one
2 fiscal year, or fifty thousand dollars (~~\$50,000~~) in total, over
3 multiple fiscal years.

4 (iii) ~~Documentation dated on or before December 31, 2010,~~
5 ~~shall be provided indicating the intention to finance all or a portion~~
6 ~~of the project with the future issuance of long-term debt, or~~
7 ~~documentation showing that the issuance of long-term~~
8 ~~redevelopment agency debt was being planned on or before~~
9 ~~December 31, 2010.~~

10 (iv) ~~Each construction contract over one hundred thousand~~
11 ~~dollars (\$100,000) shall include a provision that prevailing wage~~
12 ~~will be paid by the contractor and all of that contractor's~~
13 ~~subcontractors.~~

14 (v) ~~For each construction contract over two hundred fifty~~
15 ~~thousand dollars (\$250,000), the successor agency shall require~~
16 ~~prospective contractors to submit a standardized questionnaire and~~
17 ~~financial statements as part of their bid package, to establish the~~
18 ~~contractor's financial ability and experience in performing large~~
19 ~~construction projects.~~

20 (B) ~~Any city, county, or city and county that funded an eligible~~
21 ~~project, meeting the criteria listed in clauses (i) to (iii), inclusive,~~
22 ~~of subparagraph (A) with funds other than redevelopment funds,~~
23 ~~between June 28, 2011 and the effective date of the act adding this~~
24 ~~paragraph, shall be eligible to be reimbursed utilizing 2011 bond~~
25 ~~proceeds, if the project meets the purpose for which the bonds~~
26 ~~were issued.~~

27 (2) (A) ~~Notwithstanding Section 34177.3 or any other~~
28 ~~conflicting provision of law, bond proceeds in excess of the~~
29 ~~amounts needed to satisfy approved enforceable obligations shall~~
30 ~~thereafter be expended in a manner consistent with the original~~
31 ~~bond covenants. Enforceable obligations may be satisfied by the~~
32 ~~creation of reserves for projects that are the subject of the~~
33 ~~enforceable obligation and that are consistent with the contractual~~
34 ~~obligations for those projects, or by expending funds to complete~~
35 ~~the projects. An expenditure made pursuant to this paragraph shall~~
36 ~~constitute the creation of excess bond proceeds obligations to be~~
37 ~~paid from the excess proceeds. Excess bond proceeds obligations~~
38 ~~shall be listed separately on the Recognized Obligation Payment~~
39 ~~Schedule submitted by the successor agency.~~

1 ~~(B) If remaining bond proceeds cannot be spent in a manner~~
2 ~~consistent with the bond covenants pursuant to subparagraph (A),~~
3 ~~the proceeds shall be used to defease the bonds or to purchase~~
4 ~~those same outstanding bonds on the open market for cancellation.~~

5 *SEC. 2. Section 34191.4 of the Health and Safety Code is*
6 *amended to read:*

7 34191.4. The following provisions shall apply to any successor
8 agency that has been issued a finding of completion by the
9 Department of Finance:

10 (a) All real property and interests in real property identified in
11 subparagraph (C) of paragraph (5) of subdivision (c) of Section
12 34179.5 shall be transferred to the Community Redevelopment
13 Property Trust Fund of the successor agency upon approval by the
14 Department of Finance of the long-range property management
15 plan submitted by the successor agency pursuant to subdivision
16 (b) of Section 34191.5 unless that property is subject to the
17 requirements of any existing enforceable obligation.

18 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
19 application by the successor agency and approval by the oversight
20 board, loan agreements entered into between the redevelopment
21 agency and the city, county, or city and county that created *by* the
22 redevelopment agency shall be deemed to be enforceable
23 obligations provided that the oversight board makes a finding that
24 the loan was for legitimate redevelopment purposes.

25 (2) If the oversight board finds that the loan is an enforceable
26 obligation, the accumulated interest on the remaining principal
27 amount of the loan shall be recalculated from origination at the
28 interest rate earned by funds deposited into the Local Agency
29 Investment Fund. The loan shall be repaid to the city, county, or
30 city and county in accordance with a defined schedule over a
31 reasonable term of years at an interest rate not to exceed the interest
32 rate earned by funds deposited into the Local Agency Investment
33 Fund. The annual loan repayments provided for in the recognized
34 obligation payment schedules shall be subject to all of the following
35 limitations:

36 (A) Loan repayments shall not be made prior to the 2013–14
37 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
38 repayment amount authorized each fiscal year for repayments
39 made pursuant to this subdivision and paragraph (7) of subdivision
40 (e) of Section 34176 combined shall be equal to one-half of the

1 increase between the amount distributed to the taxing entities
2 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
3 that fiscal year and the amount distributed to taxing entities
4 pursuant to that paragraph in the 2012–13 base year, provided,
5 however, that calculation of the amount distributed to taxing
6 entities during the 2012–13 base year shall not include any amounts
7 distributed to taxing entities pursuant to the due diligence review
8 process established in Sections 34179.5 to 34179.8, inclusive.
9 Loan or deferral repayments made pursuant to this subdivision
10 shall be second in priority to amounts to be repaid pursuant to
11 paragraph (7) of subdivision (e) of Section 34176.

12 (B) Repayments received by the city, county, or city and county
13 that formed the redevelopment agency shall first be used to retire
14 any outstanding amounts borrowed and owed to the Low and
15 Moderate Income Housing Fund of the former redevelopment
16 agency for purposes of the Supplemental Educational Revenue
17 Augmentation Fund and shall be distributed to the Low and
18 Moderate Income Housing Asset Fund established by subdivision
19 (d) of Section 34176.

20 (C) Twenty percent of any loan repayment shall be deducted
21 from the loan repayment amount and shall be transferred to the
22 Low and Moderate Income Housing Asset Fund, after all
23 outstanding loans from the Low and Moderate Income Housing
24 Fund for purposes of the Supplemental Educational Revenue
25 Augmentation Fund have been paid.

26 (c) (1) Bond proceeds derived from bonds issued on or before
27 ~~December 31, 2010~~, June 28, 2011, shall be used for the purposes
28 for which the bonds were sold.

29 (A) *Bond proceeds derived from bonds issued between January*
30 *1, 2011, and June 28, 2011, shall only be used for projects which*
31 *meet the following criteria, as determined by a resolution issued*
32 *by the oversight board:*

33 (i) *The project shall be consistent with the applicable regional*
34 *sustainable communities strategy or alternative planning strategy*
35 *adopted pursuant to Section 65080 of the Government Code that*
36 *the State Air Resources Board has determined would, if*
37 *implemented, achieve the greenhouse gas emission reduction*
38 *targets established by the board or, if a sustainable communities*
39 *strategy is not required for a region by law, a regional*

1 transportation plan that includes programs and policies to reduce
2 greenhouse gas emissions.

3 (ii) Two or more significant planning or implementation actions
4 shall have occurred on or before December 31, 2010. The term
5 “significant planning and implementation actions” means any of
6 the following:

7 (I) An action approved by the governing body of the city, county,
8 city and county, the board of the former redevelopment agency,
9 or the planning commission directly related to the planning or
10 implementation of the project.

11 (II) The project is included within an approved city, county, city
12 and county, or redevelopment agency planning document,
13 including, but not limited to, a redevelopment agency five-year
14 implementation plan, capital improvement plan, master plan, or
15 other planning document.

16 (III) The expenditure by the city, county, city and county, or
17 project sponsor, of more than twenty-five thousand dollars
18 (\$25,000) on planning related activities for the project within one
19 fiscal year, or fifty thousand dollars (\$50,000) in total, over
20 multiple fiscal years.

21 (iii) Documentation dated on or before December 31, 2010,
22 shall be provided indicating the intention to finance all or a portion
23 of the project with the future issuance of long-term debt, or
24 documentation showing that the issuance of long-term
25 redevelopment agency debt was being planned on or before
26 December 31, 2010.

27 (iv) Each construction contract over one hundred thousand
28 dollars (\$100,000) shall include a provision that prevailing wage
29 will be paid by the contractor and all of that contractor’s
30 subcontractors.

31 (v) For each construction contract over two hundred fifty
32 thousand dollars (\$250,000), the successor agency shall require
33 prospective contractors to submit a standardized questionnaire
34 and financial statements as part of their bid package, to establish
35 the contractor’s financial ability and experience in performing
36 large construction projects.

37 (B) Any city, county, or city and county that funded an eligible
38 project, meeting the criteria listed in clauses (i) to (iii), inclusive,
39 of subparagraph (A) with funds other than redevelopment funds,
40 between June 28, 2011, and the effective date of the act adding

1 *this paragraph, shall be eligible to be reimbursed utilizing 2011*
2 *bond proceeds, if the project meets the purpose for which the bonds*
3 *were issued.*

4 (2) (A) Notwithstanding Section 34177.3 or any other
5 conflicting provision of law, bond proceeds in excess of the
6 amounts needed to satisfy approved enforceable obligations shall
7 thereafter be expended in a manner consistent with the original
8 bond covenants. Enforceable obligations may be satisfied by the
9 creation of reserves for projects that are the subject of the
10 enforceable obligation and that are consistent with the contractual
11 obligations for those projects, or by expending funds to complete
12 the projects. An expenditure made pursuant to this paragraph shall
13 constitute the creation of excess bond proceeds obligations to be
14 paid from the excess proceeds. Excess bond proceeds obligations
15 shall be listed separately on the Recognized Obligation Payment
16 Schedule submitted by the successor agency.

17 (B) If remaining bond proceeds cannot be spent in a manner
18 consistent with the bond covenants pursuant to subparagraph (A),
19 the proceeds shall be used to defease the bonds or to purchase
20 those same outstanding bonds on the open market for cancellation.

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AB 2493 (Bloom)
Redevelopment Agencies:
Statewide Economic Development, Infrastructure Construction,
Affordable Housing and Job Creation
Fact Sheet

PURPOSE

It is estimated that approximately \$750 million in 2011 redevelopment bond proceeds are currently sitting idle and cannot be used. If these proceeds were spent on their intended projects, it is estimated that approximately 19,000 high wage construction and related jobs would be generated.

During the first half of 2011, prior to the dissolution of all redevelopment agencies, approximately 50 agencies legally issued bonds, of those cities, 39 have outstanding bond proceeds they are now not allowed to use.

If these funds were put to work, it is estimated they would generate approximately 19,000 jobs, \$2.8 billion in statewide economic activity and over \$130 million dollars in new State and local tax revenues.

These figures were calculated by Smart Cities Prevail, a nonprofit that advocates for prevailing wage jobs. Their economic impact analysis utilized IMPLAN software, a widely used tool for analyzing the economic impacts of a broad range of policy alternatives and projects, including construction.

The State has asserted that the vast majority of the 2011 redevelopment bonds must be defeased and their proceeds not spent on projects, however, over 90% of these bonds cannot be defeased for 10 years.

During this ten year period nearly \$1 billion will be spent on the debt service payments for these bonds, and the bond proceeds will continue to go unused. If the proceeds were used for their intended purposes, the construction of these projects would generate \$2.8 billion in statewide economic activity; nearly triple the debt service payments during the ten year period.

The vast majority of these bonds were issued for public works projects such as infrastructure construction and repair, new public facilities, and affordable housing. Utilization of the proceeds would

result in the completion of over 200 projects, and an estimated 2,000 affordable housing units.

Bondholders who purchased tax-exempt bonds (approximately 70% of the bonds in question) for specific public works projects were promised tax-free returns.

Per Federal Tax Law, tax-exempt bond proceeds must be used for their intended purpose, or the bonds could be subject to losing their tax-exempt status.

SUMMARY

AB 2493 would adjust the cutoff date for the use of redevelopment bond proceeds, from December 31, 2010, as currently established in AB 1484, to June 28, 2011, the date the dissolution legislation was signed, thus allowing 2011 bond funds to be used for economic development and job creation.

AB 2493 is a reincarnation of AB 981 (introduced in 2013), however, various provisions have been added to AB 2493, reflecting conversations with the Governor's Office, Department of Finance, legislative leadership, and construction trade groups. These provisions are designed to ensure that cities that rushed to issue bonds in 2011, in order to "lock-up" funds for future projects, they were not currently working on, would not be able to utilize their 2011 bond proceeds. Specifically, 2011 bond proceeds could only be used if the following criteria were met:

1. The project is consistent with the sustainable communities strategy adopted by the appropriate metropolitan planning organization, pursuant to SB 375.
2. For each project two or more significant planning or implementation actions occurred on or before December 31, 2010.
3. Documentation dated on or before December 31, 2010, can be provided showing the intention to finance all or a portion of the project with the future issuance of long term debt, or documentation can be provided showing that the issuance of long-term debt was being planned.

4. Prevailing wage shall be paid by the contractor. The contractor shall also be required to establish their financial ability and experience performing large construction projects.

EXISTING LAW

AB 1484, a clean-up bill to AB X1 26 (the dissolution legislation), granted successor agencies the ability to use bond proceeds issued prior to January 1, 2011, but was ambiguous on the use of bonds issued between January 1, 2011 and June 28, 2011 (legally issued prior to the dissolution of redevelopment).

The Department of Finance has interpreted AB 1484 to mean that successor agencies cannot use 2011 bond proceeds unless the former redevelopment agency had entered into third party contract to expend the proceeds, prior to agency dissolution. The Department of Finance contends that the bonds must be defeased using the remaining proceeds. However, the majority of the 2011 bonds cannot be defeased for 10 years.

BACKGROUND

Prior to the dissolution of redevelopment agencies in the State, several cities through their local Redevelopment Agencies (RDA) legally issued bonds between January 1, 2011 and June 28, 2011, for qualified local projects, including infrastructure, public works, and affordable housing projects.

Chapter 5, Statutes of 2011 (AB X1 26, Blumenfield), imposed an immediate freeze on RDA authority to engage in most of their previous functions, including incurring new debt, making loans or grants, entering into new contracts or amending existing contracts, acquiring or disposing of assets, or altering redevelopment plans. The bill also dissolved RDAs, effective February 1, 2012 (Supreme Court adjusted date) and created a process for winding down redevelopment financial affairs and distributing any net funds from assets or property taxes to other local taxing agencies.

Chapter 6, Statutes of 2011 (ABX1 27, Blumenfield) allowed RDAs to opt into a voluntary alternative program to avoid the dissolution included in AB X1 26. The program included annual payments to K-12 districts (\$1.7 billion in 2011-12 and about \$400 million in future years) to offset the fiscal effect of redevelopment. AB X1 27 was struck down by the State Supreme court on a 6-1 vote in 2011, on the grounds that it violated Prop 22.

Because of the decision, redevelopment agencies were dissolved and replaced by successor agencies and oversight boards. After the court decisions, AB 1484 was enacted and specifies how the successor agencies will manage and administer the functions of the former redevelopment agencies, the role of the oversight boards and state Department of Finance in the Redevelopment Dissolution process.

SPONSOR

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- Sen. Ricardo Lara (D-Bell Gardens)
- Sen. Ted Lieu (D-Torrance)

SUPPORT

- California Building Industry Association
- Cities of Calexico, Culver City, Folsom, Galt, Glendale, La Quinta, Lynwood, National City, Oakdale, Riverbank, Santa Cruz, Santa Monica, Signal Hill, Sonoma, Stanton, Ukiah, Union City, West Hollywood, and Yorba Linda
- Glendale Successor Agency
- Housing California
- League of California Cities
- Los Angeles County Division of the League of California Cities
- MuniServices
- National City Chamber of Commerce
- Northern California Carpenters Regional Council
- Stanton Housing Authority
- Southwest California Legislative Council
- West Hollywood Chamber of Commerce

OPPOSITION

- County of Santa Clara

Version: 5/27/2014

SENATE GOVERNANCE & FINANCE COMMITTEE
Senator Lois Wolk, Chair

BILL NO: AB 2493
AUTHOR: Bloom
VERSION: 6/10/14
CONSULTANT: Weinberger

HEARING: 6/25/14
FISCAL: Yes
TAX LEVY: No

REDEVELOPMENT SUCCESSOR AGENCIES

Allows redevelopment successor agencies to spend proceeds from bonds issued by former redevelopment agencies in 2011.

Background and Existing Law

Until 2011, the Community Redevelopment Law allowed local officials to set up redevelopment agencies (RDAs), prepare and adopt redevelopment plans, and finance redevelopment activities. As a redevelopment project area's assessed valuation grew above its base-year value, the resulting property tax revenues – the property tax increment – went to the RDA instead of going to the underlying local governments. The RDA kept the property tax increment revenues generated from increases in property values within a redevelopment project area.

Citing a significant State General Fund deficit, Governor Brown's 2011-12 budget proposed eliminating RDAs and returning billions of dollars of property tax revenues to schools, cities, and counties to fund core services. Among the statutory changes that the Legislature adopted to implement the 2011-12 budget, AB X1 26 (Blumenfield, 2011) dissolved all RDAs. The California Supreme Court's 2011 ruling in *California Redevelopment Association v. Matosantos* upheld AB X1 26, but invalidated AB X1 27 (Blumenfield, 2011), which would have allowed most RDAs to avoid dissolution.

AB X1 26 established successor agencies to manage the process of unwinding former RDAs' affairs. With the exception of seven cities that chose not to serve as successor agencies, the city or county that created each former RDA now serves as that RDA's successor agency. Each successor agency has an oversight board that is responsible for supervising it and approving its actions. The Department of Finance (DOF) can review and request reconsideration of an oversight board's decisions.

One of the successor agencies' primary responsibilities is to make payments for enforceable obligations entered into by former RDAs. The statutory definition of an "enforceable obligation" includes bonds, specified bond-related payments, some loans, payments required by the federal government, obligations to the

state, obligations imposed by state law, legally required payments related to RDA employees, judgments or settlements, and other legally binding and enforceable agreements or contracts.

Each successor agency must, every six months, draft a list of enforceable obligations that are payable during a subsequent six month period. This "Recognized Obligation Payment Schedule" (ROPS) must be adopted by the oversight board and is subject to review by DOF. Obligations listed on a ROPS are payable from a Redevelopment Property Tax Trust Fund, which contains the revenues that would have been allocated as tax increment to a former RDA.

If a successor agency complies with state laws that require it to remit specified RDA property tax allocations and cash assets identified through a "due diligence review" process, it receives a "finding of completion" from DOF (AB 1484, Assembly Budget Committee, 2012). Approximately 300 successor agencies have received a finding of completion.

State law allows a successor agency that receives a finding of completion to use bond proceeds derived from bonds issued on or before December 31, 2010, for the purposes for which the bonds were sold. Bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations must be expended in a manner consistent with the original bond covenants. If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants, the proceeds must be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation. Defeasing bonds is a method of retiring bond debt by buying and holding risk-free U.S. Treasury securities in an amount that is sufficient to cover all principal and interest payments on the outstanding bonds.

Citing the costs associated with retiring proceeds from bonds issued by RDAs in 2011 and the potential benefits of investing those proceeds in development projects, some local officials want the Legislature to allow successor agencies to spend 2011 bond proceeds under specified conditions.

Proposed Law

Assembly Bill 2493 allows a successor agency to use bond proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, only for projects which meet the following criteria, as determined by a resolution issued by the oversight board:

- The project must be consistent with the applicable regional sustainable communities strategy or alternative planning strategy adopted pursuant to state law that the State Air Resources Board has determined would, if implemented, achieve the greenhouse gas emission reduction targets established by the board or, if a sustainable communities strategy is not re-

- quired for a region by law, a regional transportation plan that includes programs and policies to reduce greenhouse gas emissions.
- Two or more of the following significant planning or implementation actions must have occurred on or before December 31, 2010:
 - An action approved by the governing body of the city, county, city and county, the board of the former redevelopment agency, or the planning commission directly related to the planning or implementation of the project.
 - The project is included within an approved city, county, city and county, or redevelopment agency planning document, including, but not limited to, a redevelopment agency five-year implementation plan, capital improvement plan, master plan, or other planning document.
 - The expenditure by the city, county, city and county, or project sponsor, of more than \$25,000 on planning related activities for the project within one fiscal year, or \$50,000 in total, over multiple fiscal years.
 - The successor agency must provide documentation, dated on or before December 31, 2010, indicating the intention to finance all or a portion of the project with the future issuance of long-term debt, or documentation showing that the issuance of long-term redevelopment agency debt was being planned on or before December 31, 2010.
 - Each construction contract over \$100,000 must include a provision that prevailing wage will be paid by the contractor and all of that contractor's subcontractors.
 - For each construction contract over \$250,000, the successor agency must require prospective contractors to submit a standardized questionnaire and financial statements as part of their bid package, to establish the contractor's financial ability and experience in performing large construction projects.

AB 2493 allows a successor agency to use 2011 bond proceeds to reimburse a city, county, or city and county that funded an eligible project that meets specified criteria with funds other than redevelopment funds between June 28, 2011 and the bill's effective date.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. State law offers successor agencies no good options for disposing of billions of dollars of unspent RDA bond proceeds. If the interest

rates that a successor agency earns on securities it buys to defease bonds are significantly lower than the interest payments on the bonds, the agency will lose money on the transaction. As a result, successor agencies may choose to retain hundreds of millions of dollars of bond proceeds for extended periods of time, while paying debt service, without producing any new infrastructure or economic development. Even if an agency wants to defease the 2011 bonds, much of the debt that was issued in 2011 can't be retired for at least 10 years after it was issued. In the meantime, that debt continues to generate interest costs while producing no offsetting economic benefits. By contrast, AB 2493 will support the completion of infrastructure projects that have already received millions of dollars of public investments, support state policy goals, and generate billions of dollars of economic activity that will benefit residents throughout California.

2. Forgiving Mardi Gras sins. In what has been called a "Mardi Gras" reaction, some redevelopment officials responded to Governor Brown's January 2011 proposal to eliminate redevelopment agencies by accelerating their RDAs' tax allocation bond sales. According to the Legislative Analyst's Office, in the first six months of 2011, RDAs issued about \$1.5 billion in tax allocation bonds, a level of debt issuance greater than during all 12 months of 2010 (\$1.3 billion). About two-thirds of the bond issuances in 2011 had interest rates greater than 7 percent—compared with less than one-quarter of bond issuances in 2010. In fact, RDAs issued more tax allocation bonds with interest rates exceeding 8 percent during the first six months of 2011 than they had in the previous ten years. Because some of these atypical bond sales were efforts to preempt the Governor's proposal by establishing debt obligations that would tie up property tax increment revenues well into the future, state law does not allow successor agencies to use unencumbered proceeds from bonds sold in 2011. *The Committee may wish to consider whether local officials should now be allowed to use bond proceeds that were generated in an ill-conceived rush to confound the Governor's RDA proposal.*

3. Picking the right criteria. Not all tax allocation bonds issued in 2011 were rushed to market to preempt changes in state law. Before the Governor's budget was released, some RDAs were preparing, in the course of their regular activities, to issue debt to finance long-planned projects. AB 2493 makes an effort to distinguish between those bonds and the so-called "Mardi-Gras" bonds by specifying criteria that must be met in order to spend 2011 bonds proceeds. It is unclear, however, whether the bill's criteria are strict enough to screen out all of the bonds that were rushed to market. The fact that a project was listed in a capital improvement plan, for example, is not a very rigorous standard for determining whether, absent the Governor's proposal, an RDA would have issued debt to finance that project in 2011. By contrast, it seems reasonable to view debt that was issued well after January 2011 less favorably than bonds issued within the first couple of months of 2011. *The Committee may wish to consider amending AB 2493 to establish more rigorous criteria for determining which 2011 bond proceeds may be spent, including a criterion that would only allow debt issued before April 1, 2011 to be eligible.*

4. Retirement planning. The statutes governing RDAs' dissolution place a high priority on honoring obligations associated with bonds issued by former RDAs. Some local officials worry that some tax allocations bonds' high interest rates, and the relatively low risk-free rate of return that those funds would earn if they were dedicated to retiring the bond debt, will jeopardize the ability to repay the debt. It is not clear how this problem of "negative arbitrage" will be resolved when bonds reach the dates on which they can be retired. If the state determines that at least some portion of former RDAs' 2011 bond proceeds should be defeased, policymakers will need to consider clarifying state law to minimize the costs and risks associated with defeasance.

5. Zero-sum game. Allocating former RDAs' property tax increment revenues is a zero-sum game; every reallocation creates winners and losers. A successor agency that, under AB 2493's provisions, finances projects using proceeds from bonds issued in 2011 will receive larger allocations of former property tax increment revenues in some fiscal years than it would under current law. Other local governments - including school districts - will receive smaller allocations than they would under current law. One fiscal loser will be the State General Fund, which must backfill the revenues that the schools won't get.

6. Technical amendments. On February 18, 2014, Governor Brown signed Assembly Bill 471 (Atkins), which amended several statutes that also would be amended if AB 2493 is enacted. Because AB 471 was an urgency statute, approved by a two-thirds vote in both houses of the Legislature, that bill's changes to state law took effect immediately. Because AB 2493's language does not reflect the changes that AB 471 made to state law, enacting AB 2493 in its current form would have the unintended effect of repealing, or "chaptering out," some of AB 471's provisions. *The Committee may wish to consider amending AB 2493 to include the changes made to state law by AB 471.*

7. Double-referral. Because some of AB 2493's provisions fall within the jurisdictions of the Senate Transportation & Housing Committee and the Senate Governance & Finance Committee, the Senate Rules Committee ordered a double-referral. The Senate Transportation & Housing Committee passed the bill at its June 18 hearing by a 9-1 vote.

Assembly Actions

| | |
|---|------|
| Assembly Local Government Committee: | 8-0 |
| Assembly Housing and Community Development Committee: | 7-0 |
| Assembly Appropriations Committee: | 16-0 |
| Assembly Floor: | 75-1 |

Support and Opposition (6/19/14)

Support: California Building Industry Association; Cities of Calexico, Culver City, Folsom, Galt, Glendale, La Quinta, Lynwood, National City, Oakdale, Riverbank, Santa Cruz, Santa Monica, Signal Hill, Sonoma, Stanton, Ukiah, Union City, West Hollywood, and Yorba Lina; Glendale Successor Agency; Housing California; League of California Cities; MuniServices; National City Chamber of Commerce; Northern California Carpenters Regional Council; Southwest California Legislative Council; Stanton Housing Authority; West Hollywood Chamber of Commerce.

Opposition: California Special Districts Association; California State Association of Counties; County of Santa Clara.