

CONSOLIDATED OVERSIGHT BOARD

MONTEREY COUNTY

ACTING AS SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

MEETING: September 15, 2022	AGENDA NO.:
SUBJECT: a. Adopt a Resolution approving the Successor Agency for the County of Monterey Amended Recognized Obligation Payment Schedule (ROPS) for January 1, 2023 to June 30, 2023 (Amended ROPS 22-23B); b. Authorize the Chair of the Oversight Board to sign the ROPS form, as required by the State Department of Finance; and c. Direct staff to submit the ROPS to the State Department of Finance.	
DEPARTMENT: County of Monterey Housing and Community Development Department	

RECOMMENDATION:

- a. Adopt a resolution approving the Successor Agency for the County of Monterey Amended Recognized Obligation Payment Schedule (ROPS) for January 1, 2023 to June 30, 2023 (Amended ROPS 22-23B);
- b. Authorize the Chair of the Oversight Board to sign the ROPS form, as required by the State Department of Finance; and
- c. Direct staff to submit the ROPS to the State Department of Finance.

DISCUSSION:

Pursuant to complying with the Dissolution Act, as amended by Assembly Bill (AB) 1484, the Amended ROPS 22-23B, must be approved by the Consolidated Oversight Board by resolution and submitted to the State Department of Finance (DOF), County Auditor-Controller, and County Administrative Officer by October 1, 2022. AB 1484 includes penalties for Successor Agencies that do not submit the ROPS by the deadline.

As with previous ROPSs, the primary purpose is to list all enforceable obligations, the total amount of the obligation, and payments anticipated for the six-month period from January 1, 2023 through June 30, 2023. Once approved by DOF, the Amended ROPS 22-23B will allow the Successor Agency to make the payments listed. The draft resolution (Attachment 1) and Amended ROPS 22-23B (Attachment 2) are provided for Board consideration.

A total of \$3,776,755 is needed Period B for fiscal year 2022-2023 for the Successor Agency for the County of Monterey (Agency) recognized obligations, the majority of which, \$3,206,343, are for activities related to the East Garrison development Item No. 19 (East Garrison DDA Affordable Housing Subsidy) associated with the East Garrison Phase 3 Rental Affordable Housing units. The Estimated Beginning Fund Balance is \$4,933,347.14, and is on pace to be fully encumbered by June 30, 2023.

Item No. 19 – East Garrison Affordable Housing Subsidy

The Agency is requesting \$3,206,343 for ROPS Period 22-23B Item No. 19 to fund a portion of the Agency's obligation for Phase 3 Rental Affordable Housing Project (Phase 3 Project) being developed by Artspace, Inc. (Artspace). In spring 2022, the Agency requested and Department of Finance (DOF) approved a total of \$3,206,343 for ROPS Period 22-23 for Item No. 19 (\$1,456,343 for ROPS Period 22-23A and \$1,750,000 for ROPS Period 22-23B). However, the prior period adjustment DOF applied to the Agency's ROPS 22-23 reduced the Agency's RPTTF distribution by a total \$2,289,087. The Agency is requesting the total \$3,206,343 that was previously requested and approved to correct for the prior period adjustment and enable the Agency to restore those needed funds for the affordable housing subsidy for the Phase 3 Project.

Pursuant to the East Garrison Disposition and Development Agreement (EGDDA), the total Agency obligation for the Phase 3 Project is \$6,568,300 as of August 30, 2022. Artspace is working with the East Garrison developer to design the Phase 3 Project, the 66-unit low and very-low rental apartment building for Phase 3. The Agency is actively working with the developer and Artspace to identify grant and tax credit opportunities to augment developer and Agency funding to fully fund the Phase 3 Project. Plans for the Phase 3 Project are developing quickly and

Artspace intends to apply for California Tax Credit Allocation Committee (CTCAC) in the spring 2023 to fund construction of the project. Artspace is optimistic that grants and other funding programs that the Project will be eligible for will become available during ROPS Period 22-23. The Agency's tax increment contribution is obligated, is critical to the timely completion of the project, and will be used as leverage to help secure CTCAC and other funding for the project. Pursuant to the EGDDA, the developer has provided the Agency with a guarantee the Phase 3 Project will be completed no later than March 31, 2025. Additionally, the developer has an obligation to contribute funds toward the for the Phase 3 Project and provided the Agency with a surety performance bond in the amount of \$17.5 million for its completion.

The Phase 2 Rental Affordable Housing Project being developed by CHISPA is well underway and construction is anticipated to be complete in 2023. A Reimbursement Agreement between the Agency and CHISPA was executed on January 11, 2022 to make the Agency's obligation is \$6,051,106 available to CHISPA for the Phase 2 Project. To date a total of \$5,233,298.24 has been reimbursed to CHISPA and the remaining \$817,807.95 is anticipated to be spent by the October 31, 2022.

Item No. 10 – East Garrison DDA

The Agency is requesting \$481,482 for ROPS Period 22-23B Item No. 10 to fund activities including: mothballing activities to preserve the Historic Buildings including repairing and sealing windows and repairing areas of water intrusion; weed abatement and fire fuel mitigation; moderate income Work Force housing qualification oversight; and on-call maintenance costs. In spring 2022, the Agency requested and Department of Finance (DOF) approved a total of \$481,482 for ROPS Period 22-23 for Item No. 10 (\$200,000 for ROPS Period 22-23A and \$281,412 for ROPS Period 22-23B). The Agency is requesting the total \$481,482 that was previously requested and approved to correct for the prior period adjustment and enable the Agency to restore those needed funds to manage the EGDDA and properties owned by the Agency until such time they transfer ownership pursuant to the EGDDA.

In the DOF's determination letter regarding the Agency's 2022-23 Annual ROPS dated April 13, 2022, DOF approved the Item No. 10 requested amount, however, DOF noted that "...the Oversight Board (OB) has approved an amount that appears excessive, given the number and nature of obligations listed on the ROPS." Staff would like to address this comment first by acknowledging that the \$481,482 requested is at the administrative cap, an amount that is higher than the Agency's typical annual expenditures at East Garrison, largely due to the needed funding required to update the mothballing activities to preserve the 23 Historic Buildings at East Garrison. The mothballing project design had reached 90% by December 2021 and was pending Hazardous Materials (HazMat) reporting which was completed in March 2022. By May 2022, the plans were ready with the HazMat assessment information incorporated and final plans were completed in late June 2022. Staff are working with the Monterey County Housing and Community Development (HCD) to secure permits over the summer, which are currently pending approval with work anticipated to commence in fall 2022 and the Item No. 10 funds are critical to support the mothballing update as well as the above listed activities.

Staff is working diligently with the developer, non-profit partners, and County departments to continue progress completing the East Garrison development and implementing to EGDDA obligations. The development at East Garrison – including the market rate as well as affordable housing and other public facilities - has taken place a slower rate than was envisioned in 2005 when the EGDDA was negotiated for various reasons including, but not limited to: the Great Recession and bankruptcy of the original developer; dissolution of the former Redevelopment Agencies; reduction and slow recovery of State funding for affordable housing projects; COVID-19 pandemic and resulting market and supply chain challenges. Looking forward, staff anticipates that the Agency's tax increment funding obligation for the Historic Arts District to be available beginning 2025. Staff anticipate planning with the East Garrison developer and Artspace for the Historic Art District will get underway once the Phase 3 Rental Affordable Housing Project is underway.

Item No. 29 – Administrative Cost Allowance

The remaining \$75,000 for ROPS Period 22-23B is for Administrative Cost Allowance in Item No. 29, no change from the amount that was requested by the Agency and approved by DOF in the spring 2022.

Future Proposed Modifications to East Garrison Final Phase

Planning for the redevelopment of East Garrison began over 20 years ago and culminated with the adoption of the East Garrison Specific Plan, Pattern Book, EIR and EGDDA in 2005. Fast-forward to 2022, East Garrison has developed into a community of 994 homes (1400 approved) with amenities and public improvements, including:

- Phase 1 Rental Affordable Housing Project (Mid-Pen) - 65 units
- Phase 2 Rental Affordable Housing Project (CHISPA) - 65 units, under construction
- Fire Station, including a community meeting room
- 7-acre Community (Lincoln) Park
- 4 acres of neighborhood parks
- Dog Park(s)
- 26 acres of open space and trails

In response to the changing commercial market reducing demand for both retail and office space, challenges with affordable housing financing and more recently impacts from the COVID-19 pandemic on the housing market, the East Garrison developer has proposed modifications to its final phase of development. A summary of its contemplated changes include:

- Relocation of the Artspace units (66 rental affordable live/work rental units) to the Town Center to make it more competitive for CTCAC financing and to enable a more cost-effective building typology.
- Reconfiguration of the Town Center area eliminating “stand alone” commercial on north side of the park and creating one vertically integrated mixed use/ArtSpace building on the south side.
- Modified housing mix towards more single family detached and condominium unit types.

Staff is working with the developer to assess the feasibility of the proposed project revisions, and the developer is conducting a number of analyses to identify any potential impacts or modifications that may be needed to the EGDDA, Amended and Restated First Implementing Agreement between the Agency and developer, and other project approvals. The developer is currently preparing an analysis of future tax increment and revenues based on these modifications, and has communicated to staff that it does not anticipate the proposed revisions will negatively impact the future tax increment revenue anticipated from the development. Staff anticipates presenting the developers final phase proposal for consideration for preliminary feedback by the County of Monterey Board of Supervisors and the Agency Board of Directors in fall 2022. It is anticipated that the proposal and any needed agreement modifications would be presented to the Oversight Board for consideration in January 2023 and to the Agency Board of Directors thereafter.

Prepared by: Lori Woodle, Finance Manager and Melanie Beretti, AICP, Principal Planner (831) 755-5285

Attachments:

Attachment 1 – Draft Resolution

Attachment 2 – DOF Amended ROPS 22-23B Annual Recognized Obligation Payment Schedule

Attachment 3 – Approved ROPS 22-23 for the Successor Agency for the County of Monterey

**Before the Consolidated Oversight Board
Successor Agency for the
County of Monterey, State of California**

Resolution No. _____

Approve the Successor Agency for the Monterey County Amended)
Recognized Obligation Payment Schedule (ROPS) for the Period from)
January 1, 2023 to June 30, 2023 (Amended ROPS 22-23B), make related)
findings, and direct the Successor Agency Staff to take all actions)
necessary to effectuate requirements associated with this approval.

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (as amended by AB 1484, the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 10, 2012, the Monterey County Board of Supervisors adopted Resolution No. 12-006 agreeing to serve as the Successor Agency to the former Redevelopment Agency of the County of Monterey; and

WHEREAS, on February 1, 2012, the RDA of the County of Monterey was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency is declared to be a separate legal entity from the County of Monterey; and

WHEREAS, the Dissolution Act provides for the appointment of a consolidated oversight board (the "Consolidated Oversight Board"), as of July 1, 2018, with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, Health and Safety Code Section 34177(l)(2)(A) requires the Successor Agency to prepare draft Recognized Obligation Payment Schedules and make associated notifications and distributions; and

WHEREAS, Successor Agency staff is requesting \$3,776,755 to meet its funding obligation per the terms of the East Garrison Disposition and Development Agreement (EGDDA); and

WHEREAS, Successor Agency staff prepared the Amended Recognized Obligation Payment Schedule for the period January 1, 2023 through June 30, 2023 (the "Amended ROPS 22-23B"); and

WHEREAS, under the Dissolution Act, the Proposed Amended ROPS 22-23B must be submitted by the Successor Agency for the County of Monterey to the Consolidated Oversight Board for the Consolidated Oversight Board's approval in accordance with the Dissolution Act; and

WHEREAS, the Consolidated Oversight Board has reviewed the Successor Agency for the County of Monterey Proposed Amended ROPS 22-23B and has considered the staff presentation and any comments from the public related thereto.

NOW, THEREFORE, BE IT RESOLVED that the Consolidated Oversight Board hereby finds and determines that the foregoing recitals are true and correct, and together with information provided by the Successor Agency for the County of Monterey staff and the public, form the basis for the approvals, findings, resolutions and determinations set forth below.

BE IT FURTHER RESOLVED that in accordance with the Dissolution Act, the Consolidated Oversight Board hereby approves the Proposed ROPS in the form on file with the secretary of the Consolidated Oversight Board (the "Approved Amended ROPS 22-23B"), including the agreements and obligations described in the Approved Amended ROPS 22-23B, and hereby determines that such agreements and obligations constitute "enforceable obligations" and "recognized obligations" for all purposes of the Dissolution Act. In connection with such approval, the Consolidated Oversight Board makes the specific findings set forth below.

1. The Consolidated Oversight Board has examined the items on the Approved Amended ROPS 22-23B and finds that each of them is necessary for the continued maintenance and preservation of property owned by the Successor Agency for the County of Monterey until disposition in accordance with the Dissolution Act, the continued administration of the ongoing agreements herein approved by the Consolidated Oversight Board, or the expeditious wind-down of the affairs of the Dissolved RDA by the Successor Agency for the County of Monterey.
2. The Successor Agency for the County of Monterey is authorized and directed to enter into any agreements and amendments to agreements necessary to memorialize and implement the agreements and obligations in the Approved Amended ROPS 22-23B and herein approved by the Consolidated Oversight Board.
3. The Consolidated Oversight Board hereby authorizes and directs the Successor Agency for the County of Monterey staff to take all actions necessary under the Dissolution Act to file, post, mail or otherwise deliver via electronic mail, internet posting, and/or hardcopy, all notices and transmittals necessary or convenient in connection with the approval of the Approved Amended ROPS 22-23B and to take any other actions necessary to ensure the validity of the Approved Amended ROPS 22-23B and the validity of any enforceable obligation listed thereon, including participation in any Meet and Confer process.

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

PASSED AND ADOPTED this 15th day of September 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

_____, Chair

I, Melanie Beretti, Successor Agency Staff of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Consolidated Oversight Board duly made and entered in the minutes thereof for the meeting on September 15, 2022.

Dated: Melanie Beretti, AICP, Principal Planner
Housing and Community Development Department
County of Monterey, State of California

By _____

Monterey County

ROPS 2022-23 Amended

Summary.		Detail	Submission	
Requested Funding for Obligations		Authorized Amounts	Requested Adjustments	Amended Total
A	Obligations Funded as Follows (B+C+D)	0	0	0
B	Bond Proceeds	0	0	0
C	Reserve Balance	0	0	0
D	Other Funds	0	0	0
E	Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	2,106,412	1,656,343	3,762,755
F	RPTTF	2,031,412	1,656,343	3,687,755
G	Administrative RPTTF	75,000	0	75,000
H	Current Period Obligations (A+E)	2,106,412	1,656,343	3,762,755



Transmitted via e-mail

April 13, 2022

Melanie Beretti, Principal Planner
Monterey County
1441 Schilling Place, 2nd Floor
Salinas, CA 93901

2022-23 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the Monterey County Successor Agency (Agency) submitted an annual Recognized Obligation Payment Schedule for the period July 1, 2022 through June 30, 2023 (ROPS 22-23) to the California Department of Finance (Finance) on January 28, 2022. Finance has completed its review of the ROPS 22-23.

Based on a sample of line items reviewed and application of the law, Finance approves all of the items listed on the ROPS 22-23 at this time. However, Finance notes the following:

- The administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (b) (3). However, Finance notes the Oversight Board (OB) has approved an amount that appears excessive, given the number and nature of the obligations listed on the ROPS. HSC section 34179 (i) requires the OB to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the OB to apply adequate oversight when evaluating the administrative resources necessary to successfully wind-down the Agency.

Pursuant to HSC section 34186, successor agencies are required to report differences between actual payments and past estimated obligations (prior period adjustments) for the July 1, 2019 through June 30, 2020 (ROPS 19-20) period. The ROPS 19-20 prior period adjustment (PPA) will offset the ROPS 22-23 Redevelopment Property Tax Trust Fund (RPTTF) distribution. The amount of RPTTF authorized includes the PPA resulting from the County Auditor-Controller's review of the PPA form submitted by the Agency.

The Agency's maximum approved RPTTF distribution for the reporting period is \$1,548,668, as summarized in the Approved RPTTF Distribution table (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2022 through December 31, 2022 period (ROPS A period), and one distribution for the January 1, 2023 through June 30, 2023 period (ROPS B period), based on Finance's approved amounts. Since this determination is for the entire ROPS 22-23 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

This is our final determination regarding the obligations listed on the ROPS 22-23. This determination only applies to items when funding was requested for the 12-month period. If a determination by Finance in a previous ROPS is currently the subject of litigation, the item will continue to reflect the determination until the matter is resolved.

The ROPS 22-23 form submitted by the Agency and this determination letter will be posted on our website:

<http://dof.ca.gov/Programs/Redevelopment/ROPS/>

This determination is effective for the ROPS 22-23 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to Finance's review and may be adjusted even if not adjusted on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment available prior to the enactment of the redevelopment dissolution law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in the RPTTF.

Please direct inquiries to Zuber Tejani, Supervisor, or Austin Goodman, Staff, at (916) 322-2985.

Sincerely,

JENNIFER WHITAKER
Program Budget Manager

cc: Lori Woodle, Finance Manager I, Monterey County
Jennifer Forsyth, Auditor-Controller Analyst, Monterey County

Approved RPTTF Distribution July 2022 through June 2023			
	ROPS A	ROPS B	Total
RPTTF Requested	\$ 1,656,343	\$ 2,031,412	\$ 3,687,755
Administrative RPTTF Requested	75,000	75,000	150,000
Total RPTTF Requested	1,731,343	2,106,412	3,837,755
RPTTF Authorized	1,656,343	2,031,412	3,687,755
Administrative RPTTF Authorized	75,000	75,000	150,000
ROPS 19-20 prior period adjustment (PPA)	(1,731,343)	(557,744)	(2,289,087)
Total RPTTF Approved for Distribution	\$ 0	\$ 1,548,668	\$ 1,548,668