

County of Santa Clara

Finance Agency
Controller-Treasurer Department

County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5205 FAX 287-7629



NOTICE OF OBJECTION TO ROPS

Wednesday, March 6, 2013

Ms. Ana Matosantos, Director
Department of Finance
915 L Street
Sacramento, CA 95050

Oversight Board for the Santa Clara Successor Agency
1500 Warburton Avenue
Santa Clara, CA 95050

City of Santa Clara Successor Agency
1500 Warburton Avenue
Santa Clara, CA 95050

ROPS Period: **ROPS FY13-14A**

Successor Agency: **Santa Clara**

To the Successor Agency, Oversight Board, and Department of Finance:

Pursuant to Health and Safety Code section 34182.5, my office has reviewed the Recognized Obligation Payment Schedule (ROPS) submitted by the above-noted successor agency for the above-noted period. After reviewing all items and funding sources, the Santa Clara County Auditor-Controller objects to the following items and/or funding sources on the submitted ROPS:

- **ROPS Line 14 (Defense of Lawsuit Filed by County) – Funding Source: RPTTF**

This item is for legal fees purportedly for the “Defense of Lawsuit Filed by County.” It consists of \$500,000 for contracts with the law firms Gibson Dunn & Crutcher and Goldfarb Lipman with the description “Payment of Legal Fees to Defend Lawsuits.” The contract/agreement execution dates for these purported agreements are July 3, 2012 and January 8, 2013. The County Auditor-Controller has several objections to this item.

First, the County Auditor-Controller and County Office of Education did not file a lawsuit until February 8, 2013, and have not even served the lawsuit on the respondents/defendants. The contract/agreement execution dates pre-date the filing of the lawsuit – by 7 months for the Goldfarb

Board of Supervisors: Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

Lipman contract, and by 1 month for the Gibson Dunn & Crutcher contract. This indicates that the legal services being provided by these law firms are much broader in scope than is necessary to defend against the County/COE lawsuit. In order for these contracts to qualify for the ROPS, the Successor Agency must demonstrate why these costs constitute litigation expenses related to the *Successor Agency's* assets or obligations (Health & Saf. Code, § 34171(b)).

Second, it is unclear who the two law firms represent. The lawsuit filed by the County Auditor-Controller and County Office of Education names the following entities as respondents/defendants: the City, the Santa Clara Housing Authority, the Santa Clara Stadium Authority, the Santa Clara Sports and Open Space Authority, and the Successor Agency. It would be a clear conflict of interest for the same law firm(s) to represent the Successor Agency and the other City parties in the lawsuit. This is particularly true because the Successor Agency has different interests and statutory duties to the holders of enforceable obligations and all the affected taxing entities. In substantial part, the purpose of the litigation is to have assets returned from the City parties to the Successor Agency for disposition in accordance with the law. If, for some reason, the Successor Agency and the City have a plausible explanation for why there are no such conflicts of interest, then each of the respondents/defendants should pay its share the litigation defense costs. There is no basis in the Community Redevelopment Law for the Successor Agency to be reimbursed for the litigation expenses incurred to defend the City parties. While the “notes” include a statement that the funds will not be used towards the defense of the City parties, there is no mechanism to implement such an arrangement, and it is unclear how such a mechanism can be devised if the Successor Agency and City parties are jointly represented.

Third, the Successor Agency has provided no basis for the estimated amount being set at \$500,000 for the six month period. As previously stated, the lawsuit was filed on February 8, 2013, and has not yet been served. The Successor Agency needs to substantiate why its expected litigation costs—for its share of the litigation—are so high.

In accordance with section 34182.5, if the Oversight Board disputes any of these objections, it may choose to refer such disputed findings to the Department of Finance for final determination.

Please note that items and/or funding sources not questioned during this review are subject to subsequent review if they are included on a future ROPS. We also reserve the right to object to an item and/or funding source (including, but not limited to, the use of fund balance) on a future ROPS, even if no objection was made on a preceding ROPS.

Sincerely yours,



Irene Lui, CPA
Controller-Treasurer
County of Santa Clara

Attachment: ROPS 13-14A as submitted to County Auditor-Controller by Successor Agency after Oversight Board approval

SUCCESSOR AGENCY CONTACT INFORMATION

Successor Agency

ID: 335
 County: Santa Clara
 Successor Agency: Santa Clara

Primary Contact

Honorific (Ms, Mr, Mrs)

First Name
 Last Name
 Title
 Address

Gary
Ameling
Director of Finance
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408-615-2340
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Secondary Contact

Honorific (Ms, Mr, Mrs)

First Name
 Last Name
 Title
 Phone Number
 Email Address

Tamera
Haas
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SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Filed for the July 1, 2013 to December 31, 2013 Period

Name of Successor Agency: **SANTA CLARA (SANTA CLARA)**

Outstanding Debt or Obligation	Total
Total Outstanding Debt or Obligation	\$190,640,239
Current Period Outstanding Debt or Obligation	Six-Month Total
A Available Revenues Other Than Anticipated RPTTF Funding	\$0
B Enforceable Obligations Funded with RPTTF	\$3,333,040
C Administrative Allowance Funded with RPTTF	\$125,000
D Total RPTTF Funded (B + C = D)	\$3,458,040
E Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i>	\$3,458,040
F Enter Total Six-Month Anticipated RPTTF Funding	\$3,458,040
G Variance (F - D = G) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	\$0

Prior Period (July 1, 2012 through December 31, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))

H Enter Estimated Obligations Funded by RPTTF (lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed)	\$3,077,253
I Enter Actual Obligations Paid with RPTTF	\$2,952,253
J Enter Actual Administrative Expenses Paid with RPTTF	\$125,000
K Adjustment to Redevelopment Obligation Retirement Fund (H - (I + J) = K)	\$0
L Adjustment to RPTTF (D - K = L)	\$3,458,040

Certification of Oversight Board Chairman:

Pursuant to Section 34177(m) of the Health and Safety code,

I hereby certify that the above is a true and accurate Recognized

Obligation Payment Schedule for the above named agency.

Name	Title
/s/	
Signature	Date

Overflight Board Approval Date: _____

SANTA CLARA (SANTA CLARA)
 RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-144)
 July 1, 2013 through December 31, 2013

Item #	Project Name / Debt Obligation	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2013-14	Funding Source							
									Bond Proceeds	Reserve Balance	Admin Allowance	RPTT	Other	Six Month Total		
1	1999 Tax Allocation Bonds Series A	8/17/1999	6/1/2013	Bank of New York	Bond issue to fund non-housing projects	Bayshore North	44,370,753	1,708,853	0	0	0	0	0	0	0	0
2	1997 Tax Allocation Bonds Series B	8/18/1999	6/1/2017	Bank of New York	Bond issue to fund non-housing projects	Bayshore North	13,708,550	2,445,781	0	0	0	0	0	0	0	0
3	2003 Tax Allocation Bonds	6/16/2003	6/1/2014	Bank of New York	Bond issue to fund non-housing projects	Bayshore North	5,981,850	2,190,000	0	0	0	0	0	0	0	0
4	2003 Tax Allocation Bonds	4/30/2003	6/1/2013	Bank of New York	Bond issue to fund non-housing projects	Bayshore North	27,886,000	1,815,913	0	0	0	0	0	0	0	0
5	2011 Tax Allocation Bonds	5/11/2011	6/1/2016	Bank of New York	Fiscal Agent Fees, Arbitrage Fees, etc.	Bayshore North	61,397,953	15,875	0	0	0	0	0	0	0	0
6	Miscellaneous Bond Costs	8/3/1999	6/1/2016	Various	Rehabilitation Agreement - Agreements	Bayshore North	82,485	0	0	0	0	0	0	0	0	0
7	2002 Santa Clara County (Admin) Bonds	3/1/1998	7/1/2014	City of Santa Clara	Repayment of loan to Santa Clara County	Bayshore North	0	0	0	0	0	0	0	0	0	0
8	Resolution Agreement with Plaintiff	7/17/2013	7/17/2013	Plaintiff's Attorney	Resolution Agreement with Plaintiff	Bayshore North	0	0	0	0	0	0	0	0	0	0
9	Resolution Agreement with Plaintiff	7/17/2013	7/17/2013	City of Santa Clara	Resolution Agreement with Plaintiff	Bayshore North	0	0	0	0	0	0	0	0	0	0
10	Resolution Agreement with Plaintiff	7/17/2013	7/17/2013	City of Santa Clara	Resolution Agreement with Plaintiff	Bayshore North	0	0	0	0	0	0	0	0	0	0
11	Resolution Agreement with Plaintiff	7/17/2013	7/17/2013	City of Santa Clara	Resolution Agreement with Plaintiff	Bayshore North	0	0	0	0	0	0	0	0	0	0
12	Independent Legal Counsel	7/17/2012		City of Santa Clara	Legal Counsel for Overflight Board	All	60,000	60,000	0	0	0	0	0	0	0	0
13	Administrative Costs Allowance	7/1/2012		City of Santa Clara	Reimbursement for miscellaneous expenses	All	5,574,618	441,273	0	0	0	0	0	0	0	0
14	Defense of Lawsuit Filed by County	1/8/2013 and 7/1/2012	When settled	City of Santa Clara	Payment of legal fees to defend lawsuits	All	500,000	500,000	0	0	0	0	0	0	0	0

SANTA CLARA (SANTA CLARA)

Payment to Health and Safety Code section 34186 (f)

FISCAL PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS II)

July 1, 2012 through December 31, 2012

Item #	Project Name / Debt Obligation	Type	Description / Project Code	Project Area	WJBF		Bond Interest		Reserve Balance		Main Borrowing		PITI		Other	
					Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
1	1992 Tax Allocation Bonds Series A	Bank of New York	Bond issue to fund non-hearing projects	Bayshore North	\$0	\$0	\$0	\$0	\$0	\$0	\$13,000	\$13,000	\$0	\$0	\$0	\$0
2	1992 Tax Allocation Bonds Series B	Bank of New York	Bond issue to fund non-hearing projects	Bayshore North	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$54,431	\$54,431	\$0	\$0
3	1992 Tax Allocation Bonds Series C	Bank of New York	Bond issue to fund non-hearing projects	Bayshore North	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$59,778	\$59,778	\$0	\$0
4	1993 Tax Allocation Bonds	Bank of New York	Bond issue to fund non-hearing projects	Bayshore North	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000	\$1,000,000	\$0	\$0
5	1993 Tax Allocation Bonds	Bank of New York	Bond issue to fund non-hearing projects	Bayshore North	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,109	\$15,109	\$0	\$0
6																
7																
8																
9																
10																
11																
12																
13	Administrative Cost Allowance	City of Santa Clara	Reimbursement for administrative expenses	MI	\$0	\$0	\$0	\$0	\$0	\$0	\$13,000	\$13,000	\$0	\$0	\$0	\$0

SANTA CLARA (SANTA CLARA)
 RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14A) -- Notes (Optional)
 July 1, 2013 through December 31, 2013

Item #	Project Name / Debt Obligation	Notes/Comments
1	1999 Tax Allocation Bonds Series A	
2	1999 Tax Allocation Bonds Series B	
3	2002 Tax Allocation Refunding Bonds	
4	2003 Tax Allocation Bonds	
5	2011 Tax Allocation Bonds	
6	Miscellaneous Bond Costs	
7	2002 Series B COPS (Agency Share)	
8	Settlement Agreement and Judgment Relating to 2011 Cooperation Agreement	
11	City ROPS Loan	
12	Independent Legal Counsel	Legal costs to defend Oversight Board in Forty Niners SC Stadium Company LLC lawsuit.
13	Administrative Cost Allowance	
14	Defense of Lawsuit Filed by County	Costs to defend the Successor Agency only. County of Santa Clara filed case number 34-2013-80001396 on 2/8/13. Defense costs will be segregated to ensure that RPTTF monies will not be used to defend the other City of Santa Clara entities named in the lawsuit.