

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCECF #14-1174
Assignment No. 13-10-0931
0220-04698-0026

Date: October 28, 2014

To: Honorable Members of the City Council

From: Sharon M. Tso, Chief Legislative Analyst *SMT*
Miguel A. Santana, City Administrative Officer *MAS*

Subject: REVISED BOND EXPENDITURE AGREEMENT AND RELATED BOND
SPENDING PLAN BETWEEN CRA/LA AND CITY OF LOS ANGELES

SUMMARY

On August 29, 2014, the City Council authorized the City of Los Angeles ("City") to enter into a Bond Expenditure Agreement with CRA/LA, A Designated Local Authority ("CRA/LA"), and adopted a related Bond Spending Plan for the transfer of approximately \$86.4 million in Excess Bond Proceeds from the CRA/LA to the City (CF# 14-1174). The transfer of the Excess Bond Proceeds would allow for the expenditure of the funds on projects and activities that are of maximum benefit to the City and Affected Taxing Entities and in a manner consistent with the respective bond covenants.

Subsequent to the City Council's actions, CRA/LA's Governing Board and Oversight Board considered similar actions on September 11 and 23, 2014, respectively. The Governing Board approved the matter in the same form as presented to the City Council but the Oversight Board requested further revisions to both the Bond Expenditure Agreement and Bond Spending Plan. CRA/LA staff was instructed to work with City staff on the following revisions: 1) revising the Bond Expenditure Agreement to include tighter restrictions on the City's ability to modify the Bond Spending Plan in the future; 2) imposing additional reporting requirements on the City; 3) limiting the amount of bond funds that can be spent on the City's administrative costs related to the bonds; and 4) revising the Bond Spending Plan to include a brief description of each project's scope.

At the same CRA/LA Governing Board and Oversight Board meetings indicated above, both bodies approved the \$89.8 million in Excess Bond Proceeds to be included in the Recognized Obligation Payment Schedule ("ROPS") 14-15B. ROPS 14-15B was submitted to the State Department of Finance on October 1, 2014, for review and approval. This action will help expedite transfer of the funds from the CRA/LA to the

City upon receiving authorization from the State Department of Finance without having to seek any further approvals.

The purpose of this report is to provide the City Council with details on the proposed changes to the Bond Expenditure Agreement and Bond Spending Plan and request approval to enter into the revised Bond Expenditure Agreement and adopt the revised Bond Spending Plan as attached in substantial final form to this report. The City Council's previous approval of establishing a Bond Oversight Committee will remain in effect. If the City Council approves staff's recommendations, the CRA/LA's Governing Board and Oversight Board will reconsider this matter on November 6 and 13, 2014, respectively.

The City's working group comprised of representatives of the Chief Legislative Analyst (CLA), City Administrative Officer (CAO), Mayor and Economic and Workforce Development Department (EWDD) has reviewed and support the proposed changes to the Bond Expenditure Agreement and Bond Spending Plan. Over the last few weeks, numerous discussions have taken place between City staff and CRA/LA Oversight Board members to address mutual concerns and develop a document that best serves the interests of all parties involved. The documents contained in this report are the results of those efforts, although it should be noted that there is disagreement with at least one taxing entity (LAUSD) regarding their request for an allocation of Excess Bond Proceeds.

Excess Bond Proceeds

As previously reported, the CRA/LA holds approximately \$89.8 million of unobligated pre-2011 tax allocation bond proceeds as of June 30, 2014. This total is an aggregate of various bonds that were issued for several redevelopment project areas over many years by the Former CRA. Each bond issuance has a variety of requirements described in its respective bond covenants, and future expenditures by the City must comply with those requirements and must be within the project area for which the bonds were issued. A summary of the Excess Bond Proceeds by redevelopment project area and bond issuance is provided in Attachment A to this report. Of the \$89.8 million of unobligated bond proceeds, the CRA/LA will retain approximately \$3.4 million to administer the tax allocation bond issuances. The balance of approximately \$86.4 million is the amount that would be available to the City upon obtaining approval from the CRA/LA Governing Board, Oversight Board, and the State Department of Finance.

Bond Expenditure Agreement

There are three significant amendments to the revised Bond Expenditure Agreement as shown in Attachment B. The first is regarding the City's ability to add, delete, or modify the projects on the Bond Spending Plan that would be funded using the Excess Bond Proceeds. The previous Bond Expenditure Agreement allowed the City to add, delete, or modify projects to be funded without further approvals. The new Bond Expenditure

Agreement requires the City to obtain approvals of the CRA/LA Governing Board and Oversight Board if the projects on the Bond Spending Plan are amended in the future.

The second significant amendment to the Bond Expenditure Agreement is the new requirement for the City to provide a semi-annual report to the CRA/LA for transmittal to the CRA/LA Governing Board and Oversight Board. The semi-annual report would provide a summary of the projects that were funded by Excess Bond Proceeds in the previous six (6) months. This report would be separate from the quarterly accounting that the City agreed to provide in the previous Bond Expenditure Agreement.

The third significant amendment to the Bond Expenditure Agreement is the limits on which the City can use a portion of Excess Bond Proceeds for administrative costs. Below are the limits:

- No tax-exempt Excess Bond Proceeds and no more than one percent of taxable Excess Bond Proceeds will be expended for employee or consultant costs incurred in bond administration costs related to the City's reporting requirements described in Section 4.3 of the Bond Expenditure Agreement. This one percent cap equates to approximately \$452,516.
- No tax-exempt Excess Bond Proceeds and no more than 15 percent of taxable Excess Bond Proceeds shall be expended for employee or consultants costs in connection with planning activities related to the prioritization and/or evaluation of potential projects, reviewing potential projects for compliance with the applicable redevelopment plan, bond covenants, and CEQA, evaluating additional revenue sources, preparing bond appropriation reports to the Council and Mayor, and otherwise maintaining the Bond Spending Plan. This 15 percent cap equates to \$6,787,744.

The Office of the CAO believes that the caps described above will be sufficient to cover the City's administrative expenses related to the use of the Excess Bond Proceeds.

The two caps detailed above do not pertain to employee or consultant costs directly related to the planning and execution of specific capital projects such as legal, architectural, engineering, contract management, construction inspection, and project management costs, all of which would be deemed direct project costs. The City would not be restricted in its use of tax-exempt or taxable Excess Bond Proceeds for direct project costs.

Bond Spending Plan

The revised Bond Spending Plan as shown in Attachment C has three notable changes. First, a modification of the description of the Business Assistance and Catalytic Commercial Development definition has been made to reflect that all projects utilizing this category must be focused on "brick and mortar" types of improvements. Secondly, additional "potential projects" were added to some project areas based on requests

received from Council Office staff and from representatives of some of the Affected Taxing Entities that make up the CRA/LA Oversight Board. Lastly, every project listed on the Bond Spending Plan includes a brief description of the improvements and/or work proposed. As previously indicated, the City would be able to fund only those projects currently listed on the Bond Spending Plan. Should the City desire to fund a project that is not listed on the attached Bond Spending Plan, the City would be required to seek approvals from the CRA/LA Governing Board and Oversight Board. The Bond Expenditure Agreement would still allow the City flexibility to shift allocations of Excess Bond Proceeds between categories or projects listed in the Bond Spending Plan as long as the projects/activities are within designated project areas and consistent with bond covenants.

The Bond Spending Plan was created by a City working group consisting of staff representing the CLA, CAO, Mayor, EWDD, Housing and Community Investment Department (HCID), and Bureau of Engineering (BOE) to delineate each redevelopment project area's available Excess Bond Proceeds as well as categories of priority projects that are of maximum benefit to the City and Affected Taxing Entities.

Recognized Obligation Payment Schedule

It should be noted that the aggregate amount of the Excess Bond Proceeds in the amount of \$89.8 million dollars was approved by CRA/LA's Governing Board and Oversight Board to be included in the Recognized Obligation Payment Schedule ("ROPS") 14-15B submitted to the State Department of Finance on October 1, 2014. ROPS 14-15B identifies the CRA/LA's payment obligations for the period covering January 1, 2015 through June 30, 2015. It is anticipated that the Department of Finance will not provide a ruling on the authority to release the Excess Bond Proceeds until it has received an executed Bond Expenditure Agreement and related Bond Spending Plan that has been approved by the CRA/LA Governing Board and Oversight Board. The recommended actions contained in this report will help further that process. If successful, the City may have access to the Excess Bond Proceeds in early 2015.

Environmental Impact

The Bond Expenditure Agreement and Bond Spending Plan have been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq., "Guidelines"). Staff has been advised by its legal counsel Richards, Watson, and Gershon that neither the Bond Expenditure Agreement nor the Bond Spending Plan is a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378. Specifically, the Bond Expenditure Agreement and the Bond Spending Plan constitute the creation of a government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (Guidelines Section 15378(b)(4)). In addition, the Bond Expenditure Agreement and Bond Spending Plan

constitute organizational or administrative activities that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b)(5)).

FISCAL IMPACT

There is no General Fund impact to the City of Los Angeles. If all approvals are obtained and Excess Bond Proceeds are transferred to the City, in as much as the funds are bond funds, the funds would be held in a special fund separate from the General Fund.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize the Mayor or designee to execute the Revised Bond Expenditure Agreement by and between the CRA/LA and City of Los Angeles as provided in substantial final form and subject to the review and approval by mutual legal counsels as to form and legality (Attachment B);
2. Adopt the Revised Bond Spending Plan to serve as informational and reference purposes for City staff to implement eligible projects, programs, and activities that utilize the CRA/LA Excess Bond Proceeds (Attachment C);
3. Authorize the Office of the CLA, CAO, and Mayor to make non-substantial changes requested by the Oversight Board to the potential projects list of the Bond Spending Plan, only until its adoption by the Oversight Board, subject to the approval of the CLA, CAO, and Mayor;
4. Find that the Bond Expenditure Agreement and Bond Spending Plan are exempt from CEQA, direct staff to file a notice of exemption pursuant to CEQA Guidelines Section 15062, and direct staff to undertake all necessary environmental review required by CEQA prior to commencing work on any project, as defined in CEQA Guidelines Section 15378, pursuant to the Bond Expenditure Agreement and Bond Spending Plan; and
5. Instruct the CAO and CLA to report within ninety (90) days on the results of the State Department of Finance's determination on the Bond Expenditure Agreement.

Attachments:

- (A) Summary of Excess Bond Proceeds
- (B) Bond Expenditure Agreement
- (C) Bond Spending Plan

