

HAYWARD SUCCESSOR AGENCY OVERSIGHT BOARD

RESOLUTION NO. 2012-07

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD AMENDING SPECIFIED ITEMS ON THE APPROVED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD JULY THROUGH DECEMBER 2012

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (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 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the "City Council") declared that the City of Hayward, a charter city (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Hayward (the "Dissolved RDA") effective February 1, 2012; and

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

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") 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, pursuant to AB 1484 ("AB 1484"), enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, under the Dissolution Act, the Successor Agency must prepare a "Recognized Obligation Payment Schedule" ("ROPS") that enumerates the enforceable obligations and expenses of the Successor Agency for specified six-month periods; and

WHEREAS, on May 8, 2012, the City Council, acting as the Governing Board of the Successor Agency, approved the ROPS for the period July 1, 2012 through December 31, 2012 (the "Second ROPS"), and the Second ROPS was subsequently transmitted to and approved by the Oversight Board on May 21, 2012 (the "Approved Second ROPS"), all in accordance with the requirements of the Dissolution Act; and

WHEREAS, staff posted the Approved Second ROPS on the Successor Agency's website, and transmitted the Approved Second ROPS to the Auditor-Controller of the County of Alameda (the "Auditor-Controller"), to the California State Controller (the "State Controller"), and to the California Department of Finance (the "DOF") by notices dated May 21, 2012; and

WHEREAS, by letter dated May 31, 2012, the DOF confirmed receipt and approval of the Approved Second ROPS requesting reconsideration of listed exceptions as further described therein; and

WHEREAS, Successor Agency staff proposes to amend the Approved Second ROPS in the manner described below (collectively the “Modifications to the Approved Second ROPS”):

1. Amend/Add Line items 1a-d and 2a-d: Staff inadvertently left the administrative fees assessed annually in conjunction with the 2004 and 2006 tax allocation bond issuances off the previously approved ROPS. The Modified Second ROPS proposes to pay the FY2012 administrative fees from reserves of the Successor Agency;
2. Add Line item 37: Increase the contract amount for the residual Burbank School environmental remediation from \$73,000 to approximately \$328,000. As no additional distributions will be needed during the period covered by the Modified Second ROPS, the additional costs will be funded from future Redevelopment Property Tax Trust Fund distributions on subsequently adopted ROPS;
3. Add Line item 50: To fund completion of an audit of the Low and Moderate Income Housing fund of the former Redevelopment Agency pursuant to AB 1484. This audit must be completed by October 1 and staff estimates the work to cost approximately \$15,000. Staff is waiting for further guidance on the selection of the audit firm to complete this work. The Modified Second ROPS proposes to pay the costs for completing the audit from reserves of the Successor Agency;
4. Add Line item 51: To fund outside legal counsel for the Oversight Board. The City Attorney’s Office is unable to represent the Oversight Board due to possible conflicts between the City/Successor Agency and the Oversight Board. Although the selection process for the legal counsel is not complete yet, staff has estimated an annual budget of \$50,000 to fund these services. The Modified Second ROPS proposes to pay the costs for completing the audit from reserves of the Successor Agency; and
5. Add Line items 52-54: These items relate to the ground lease for the Cinema Place parking structure and the requirements for the developer and the former Redevelopment Agency to share the funding obligations for ongoing maintenance of the property and funding a maintenance reserve for small capital improvements that may be necessary. The Modified Second ROPS proposes to pay the costs for on-going maintenance from reserves of the Successor Agency; and
6. Modify Line item 4: This line item reflects the SERAF loan repayment to the Hayward Housing Authority. As part of the RDA dissolution process outlined in ABx1 26, repayment of this money to the Housing Fund was guaranteed. However, the new provisions of AB1484 prohibit repayment of these funds until FY2014 (beginning July 1, 2013). As such, the Modified Second ROPS must be changed to delete any repayment of this loan in FY2012.

WHEREAS, the Modifications to the Approved Second ROPS are reflected in the “Modified Second ROPS” Attachment III of the accompanying staff report; and

WHEREAS, other than the amendments specified in this Resolution, and reflected on the Modified Second ROPS, the remainder of the enforceable obligations and recognized obligations listed on the Approved Second ROPS not challenged by the DOF in the May 31, 2012 approval letter each constitute the “Accepted Enforceable Obligations” and each and every of the Accepted Enforceable Obligations remain in full force and effect and unchanged by the adoption of this Resolution; and

WHEREAS, on July 17, 2012, the City Council, acting as the Governing Board of the Successor Agency, approved the Modified Second ROPS; and

WHEREAS, the Modified Second ROPS must be submitted to the Oversight Board for the Oversight Board’s approval in accordance with the Dissolution Act; and

WHEREAS, the Modified Second ROPS was submitted by the Successor Agency to the Alameda County Administrative Officer, the Auditor-Controller, and the DOF in accordance with Health and Safety Section 34179.6; and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution are based.

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

BE IT FURTHER RESOLVED that no further action of the Oversight Board is required in connection with the Accepted Enforceable Obligations contained on the Approved Second ROPS.

BE IT FURTHER RESOLVED that, under Health and Safety Code Section 34180(g), the Oversight Board must approve the establishment of the recognized obligation payment schedules of the Successor Agency.

BE IT FURTHER RESOLVED that the Oversight Board, in accordance with the Dissolution Act, hereby approves the Modified Second ROPS.

BE IT FURTHER RESOLVED that the Oversight Board hereby approves the Modifications to the Approved Second ROPS as reflected in the Modified Second ROPS in the form on file with the City Clerk (the “Approved Modified Second ROPS”) including the agreements and obligations described in the Approved Modified Second ROPS, 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 Oversight Board makes the specific findings set forth below. The Oversight Board hereby declares its intent that the Approved Modified Second ROPS shall amend, replace, and supersede the Approved Second ROPS only with respect only to the Modifications to the Approved Second ROPS.

BE IT FURTHER RESOLVED that the Oversight Board has examined the items on the Approved Modified Second ROPS and finds that each of them is necessary for the continued maintenance and preservation of property owned by the Successor Agency until disposition in accordance with the Dissolution Act, the continued administration of the ongoing agreements herein approved by the Oversight Board, or the expeditious wind-down of the affairs of the Dissolved RDA by the Successor Agency.

BE IT FURTHER RESOLVED that the Oversight Board hereby authorizes the Successor Agency to, pursuant to Health and Safety Code Section 34177.3(b), enter into any agreements and amendments to agreements necessary to conduct the work of winding down the Dissolved RDA as contemplated in this Resolution, including a contract to complete the additional remediation work and a contract for legal counsel for the Oversight Board, as specified in this Resolution.

BE IT FURTHER RESOLVED that the Oversight Board hereby authorizes and directs the Successor Agency 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 Modified Second ROPS, and to take any other administrative actions necessary to ensure the validity of the Approved Modified Second ROPS and the validity of any enforceable obligation approved by the Oversight Board in this Resolution.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a charter city, to initiate and prosecute any litigation with respect to any agreement or other arrangement of the Dissolved RDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

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).

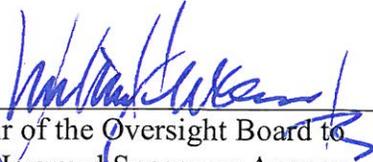
HAYWARD, CALIFORNIA, August 23, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES:	6	BOARD MEMBERS:	Sweeney, Chair
			Armas
			Brooks
			Salinas
			Henson

Valle

NOES: 0 BOARD MEMBERS:
ABSTAIN: 0 BOARD MEMBERS:
ABSENT: 0 BOARD MEMBERS:



Chair of the Oversight Board to
the Hayward Successor Agency