

MILPITAS OVERSIGHT BOARD

TO THE CITY OF MILPITAS ACTING AS THE RDA SUCCESSOR AGENCY

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA 95035-5479
GENERAL INFORMATION: 408-586-3000 www.ci.milpitas.ca.gov

MILPITAS OVERSIGHT BOARD MEETING

Monday, January 7, 2013 at 4:00 PM

Milpitas City Hall, Committee Room
455 E. Calaveras Blvd., Milpitas, CA

MEMBERS:

Mike Mendizabal, Chairman
Marsha Grilli, Vice-Chair
Armando Gomez
Emma Karlen
Bruce Knopf
Michael Murdter
Toby Wong

AGENDA

I. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE

II. PUBLIC FORUM:

Public comments regarding any subject not on the agenda, limited to three minutes.

III. APPROVAL OF MEETING MINUTES: - Consider approval of Meeting Minutes of December 12, 2012.

IV. APPROVAL OF AGENDA

V. NEW BUSINESS (PUBLIC HEARING):

- A. Receive Due Diligence Review for All Other Funds, Excluding Low and Moderate Income Housing funds, Hold Public Hearing, and Provide Direction to Staff

VI. OLD BUSINESS:

- A. Resolution Directing Successor Agency to Reserve a Portion of the Administrative Cost Allowance for Payment of Oversight Board Administrative & Legal Costs and to Pay such Invoices Immediately
- B. Receive Progress Report from Ad Hoc Committee on Status of Standstill Agreement between Milpitas Economic Development Corporation, City of Milpitas, & Successor Agency
- C. Receive Ad Hoc Committee Report regarding status of the Public Records Act request to Milpitas Economic Development Corporation and Provide Direction to Staff

VII. CLOSED SESSION – ANTICIPATED LITIGATION:

- A. CONFERENCE WITH LEGAL COUNSEL-POTENTIAL LITIGATION
Initiation of Litigation Pursuant to Gov. Code section 54956.9 (c)

VIII. AGENDA ITEMS FOR NEXT MEETING

IX. SET NEXT MEETING DATE

X. MEETING ADJOURNMENT

Pursuant to the Brown Act, the public has an opportunity to speak on any matter on the agenda, or to any matter not on the agenda within the subject matter jurisdiction of the agency. Comments are limited to no more than 3 minutes per speaker, unless modified by the Board Chair. By law, no action may be taken on any item raised during public comment on items not on the agenda, although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the agency.

Note: The Board may take action on any matter, however listed on this Agenda, and whether or not listed on this Agenda, to the extent permitted by applicable law.

If requested, this agenda can be made available in appropriate alternative formats to persons with disabilities, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact the Oversight Board Clerk for further information. In addition, a person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting, should telephone or otherwise contact the Board Clerk as soon as possible. The Board Clerk may be reached at barb.crump@gmail.com.

MILPITAS OVERSIGHT BOARD

TO THE CITY OF MILPITAS ACTING AS THE RDA SUCCESSOR AGENCY

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA 95035-5479
GENERAL INFORMATION: 408-586-3000 www.ci.milpitas.ca.gov

MILPITAS OVERSIGHT BOARD MEETING

Wednesday, December 12, 2012 at 4:00 PM

Milpitas City Hall, Committee Room
455 E. Calaveras Blvd., Milpitas, CA

MEMBERS:

Mike Mendizabal, Chairman
Armando Gomez
Marsha Grilli
Emma Karlen
Bruce Knopf
Michael Murdter
Toby Wong

ALTERNATES:

Felix Reliford
Phuong Le
Jane Corpus Takahashi

Glen Williams

DRAFT Minutes

CALL TO ORDER Chair Mendizabal called the meeting to order at 4:00 pm.

ROLL CALL **MEMBERS PRESENT:** Mike Mendizabal, Marsha Grilli, Emma Karlen, Bruce Knopf, Felix Reliford (alternate to Mr. Gomez), Glen Williams (alternate to Mr. Murdter) and Toby Wong.

MEMBERS ABSENT: Armando Gomez and Michael Murdter

PUBLIC FORUM None.

MEETING MINUTES

Board Member Bruce Knopf requested a correction to the meeting minutes of November 14, 2012. He requested the following addition on page 2, under discussion of Item D following his name to read: "distributed a written report and *clarified questions he had, about the fiduciary responsibility...*" In addition Mr. Knopf expected the report he distributed to the board to be attached to the November 14, 2012, minutes.

Moved by Mr. Knopf and seconded by Ms. Grilli, the meeting minutes of November 14, 2012 were approved, as amended and with the addition of the report, unanimously.

APPROVAL OF AGENDA

Ms. Karlen expressed concerns about the agenda and supporting documents being sent late as it did not give members time to review. Ms. Karlen requested the board agree with her on having agenda items 3 days in advance, and requested reports be attached with the agenda.

Chair Mendizabal commented that some information comes in at the last minute, so resolutions come out at the last minute.

Jennifer Gore, Oversight Board legal counsel, commented that staff does aim to have information in advance. However, there were late developments related to some items. Ms. Gore apologized for the delay in getting documents distributed.

Mr. Ogaz pointed out a written request was submitted by City Manager to continue Items D & E to the next meeting and requested that the Board take action on the request. Chair Mendizabal asked the board for feedback.

Mr. Knopf suggested that the Oversight Board take it up under each item.

Moved by Ms. Grilli and seconded by Mr. Knopf, the agenda was approved unanimously.

ACTION ITEMS

A. Appointments

Chair Mendizabal reported that Don Gage has resigned as Chair as he is the newly elected Mayor of Gilroy. Toby Wong is his replacement. Under the Oversight Board's rules, there are options for voting in a new Chairperson and Vice-chairperson. The Vice Chairperson can either serve as the Chairperson until the Board votes in a new Chairperson in March, or the Board can appoint a new Chairperson and if needed, a Vice chairperson.

Ms. Karlen sought clarification regarding correspondence from the County, dated October 23, 2012, which still listed Don Gage as the primary special district appointee.

Mr. Knopf explained that the correspondence from the County, dated October 23, 2012, pre-dated Mr. Gage's election as Mayor of Gilroy, and was provided to the Oversight Board to refresh the Board's recollection.

Moved by Mr. Knopf and seconded by Mr. Glen Williams to elect Mike Mendizabal as the Chairperson (Resolution #10) and Marsha Grilli as Vice-Chair (Resolution #11). Both will hold those offices until the next election in March 2013, pursuant to the Oversight Board's Rules and Procedures. The motion passed unanimously.

B. No item exists.

C. Appoint Oversight Board contact person for Department of Finance.

Ms. Gore recapped the resolutions that were passed at the November 14, 2012 meeting:

Resolution #6, revised the contract with legal counsel, Miller & Owen.

Resolution #7, substituted contract staff to the Oversight Board and directed it be paid through the administrative budget.

Resolution #8, amended the Board Rules and Procedures.

Resolution #9, requested documents pursuant to Public Records Act.

Those resolutions were signed by Chair Gage and forwarded to Department of Finance (DOF). Given the change in the administrative staff pursuant to Resolution #7, Ms. Gore suggested the Oversight Board appoint a new contact for DOF. Under Section 34179(h) of the Dissolution Law, the Oversight Board is required to designate an official to whom the DOF may make a request to, for review of any Oversight Board action. That official would also transmit documents to the DOF in particular, resolutions passed by board.

Chair Mendizabal asked if in the past was that handled by the City Clerk. Ms. Gore responded that she could not find documentation showing anyone who was formally appointed in the past however, someone from the City's finance department was communicating with the state DOF.

Ms Karlen indicated that in the past she was the person who submitted documents to DOF, as well as County Auditor. But, with the new requirement of submitting resolutions, and since she does not prepare resolutions, Ms. Karlen agreed that a new contact be appointed.

Mr. Knopf inquired as to who prepared the final resolutions from our last meeting and obtained the Chair's signature and forwarded them to DOF. Ms. Gore indicated that Miller and Owen finalized the resolutions based on changes made during the meeting and they were forwarded to Mary Lavelle, who then obtained Chair Gage's signature. However, the resolutions were not transmitted to DOF until recently, which is what prompted this item.

Moved by Mr. Knopf and seconded by Mr. Glen Williams that legal counsel to the Oversight Board be designated as the Oversight Board's contact person for the Department of Finance (Resolution #12). Motion passed unanimously.

D. Successor Agency staff to provide a report of the year-to-date expenditures under the current administrative budget, as directed in Resolution 7.

Chair Mendizabal indicated there was a request by the City Manager to continue this item until the next meeting and invited comments.

Mr. Knopf indicated this was a request for an accounting of the expenditures-to-date for administrative functions of the Successor Agency and, that as it is a report and not subject to a great amount of discussion, he suggested the Oversight Board take up its discussion. Mr. Wong concurred with Mr. Knopf.

Chair Mendizabal indicated that the Successor Agency had not provided a report. Mr. Knopf commented that legal counsel has prepared a resolution that recognizes that and recommends a process for moving forward to obtain that information.

Ms. Gore indicated that a resolution was prepared but recommended certain non-essential recitals in the resolution be removed given the City's stated objection to them.

Mr. Ogaz, the City Attorney, concurred with the removal of the recitals, believing several to be defamatory and untrue. Mr. Ogaz also suggested that he and Ms. Karlen could resolve this issue if the Oversight Board would agree to a brief recess. The meeting recessed at 4:24 p.m. Meeting was back in session at 4:25 pm. Ms. Karlen requested that the Board proceed with Item E and come back to this item once her staff could retrieve the information from her staff. The Chair agreed that the Item could be held while the information was retrieved and Item E was heard.

Prior to moving on to Item E, however, Mr. Knopf commented that while the the City Manager did threaten to cancel the November 14th meeting, and that if any of the recitals in the draft resolution were to be retained for any purpose, it would have been accurate to modify the wording to say "Successor Agency staff's threatened cancellation of the November 14th meeting." He also indicated that he is looking forward to a time when some of these items can be addressed without the so much emotion. Returning to this item following the presentation of Item E, Ms. Karlen distributed to the Oversight Board a table showing the Successor Agency's current administrative costs. Ms. Karlen also indicated that, based on the Oversight Board's direction in Resolution number 7, the budget had been revised. Ms. Karlen distributed the revised budget and discussed its contents.

Ms. Gore indicated that she had communicated again with the DOF, however, DOF had not changed its position that Oversight Board legal expenses must be paid from the Successor Agency's administrative cost allowance. Ms. Gore indicated that while the administrative budget had been revised as directed, this still left question of whether the Successor Agency would pay the Oversight Board's legal and administrative support costs. Ms. Gore suggested that the Oversight Board consider the portion of the proposed resolution which directed the Successor Agency to prioritize the payment of the Oversight Board's legal and administrative costs under the administrative budget.

Mr. Ogaz suggested that the Oversight Board did not need to take up the resolution presented by legal counsel, as the Successor Agency would agree to pay the Oversight Board's legal and administrative costs under protest. Mr. Ogaz indicated that this procedure would allow for the

repayment of those funds in the future should the DOF reconsider its position, or in the event of a court order.

Moved by Mr. Knopf and seconded by Ms. Grilli, that the Oversight Board direct the Successor Agency staff to prioritize payment of administrative related invoices (pursuant to contracted administrative services from the County and services performed by Oversight Board Legal Counsel), and that at any future time if there's a change in the California Department of Finance position, that the item be revisited. The Oversight Board understood that the Successor Agency would implement this under protest. (Resolution #13)

E. Address Milpitas EDC documents provided at November meeting, and Outstanding Public Records Act request.

Chair Mendizabal indicated the City Manager requested this item be continued to the next meeting and invited comments.

Moved by Ms. Karlen and seconded by Mr. Reliford to continue this item. There was a discussion; the motion did not carry. Ayes: 2 (Karlen & Reliford) Noes: 5

Ms. Gore then presented the staff report provided with the agenda, recapping each item and the City's response to those items.

There was a discussion by the Oversight Board about the staff report. Mr. Ogaz also suggested that if the Oversight Board could narrow the scope of the request, the MEDC would produce more documents voluntarily and suggested that the proposed resolution be tabled, and that he work with the Oversight Board's legal counsel to narrow or better define the scope of the request.

Mr. Knopf and Ms. Karlen were appointed to serve as an ad hoc committee, along with legal counsel, to work with City Attorney to clarify the Oversight Board's Public Records Act request to the MEDC.

Moved by Mr. Knopf and seconded by Mr. Williams. The motion passed unanimously. (Resolution #14)

F. Consider Proposed Standstill Agreement between Oversight Board and Milpitas EDC and the City of Milpitas.

Ms. Gore presented the staff report provided with the agenda along with an e-mail from City Attorney outlining the MEDC's proposed terms of the agreement.

After discussion of the item, it was determined that an ad hoc committee should be appointed to negotiate a standstill agreement.

Moved by Mr. Knopf and seconded by Mr. Williams for the Oversight Board to appoint an ad hoc committee consisting of Emma Karlen, Bruce Knopf and Marsha Grilli, to work with the Oversight Board's legal counsel and the City Attorney to negotiate a standstill agreement with MEDC, whereby MEDC agrees to preserve the assets transferred from the former Redevelopment Agency and/or the City, consistent with the following principles:

1. MEDC will not enter into any new contract effective immediately.
2. The MEDC will incur no new financial obligations of any sort while the standstill agreement is in place, effective immediately.
3. Future expenses of the EDC on existing liabilities, up to \$447,230 will be paid by the City of Milpitas.

The ad hoc committee shall bring a proposed standstill agreement back to the Oversight Board at its January meeting for approval. (Resolution #15)

The motion passed unanimously.

G. No item exists.

H. Schedule Public Hearing on Non-Housing Due Diligence Review.

John Guthrie from County of Santa Clara County reported the following:

1. The City provided a settlement on the housing Due Diligence Review which was distributed to local agencies.
2. Calls were placed daily to the audit firm to check status and today, at 1:00 p.m., the partner has received a first draft, but it has not been reviewed by the County or the City. It is the hope that the draft will be sent to all simultaneously.
3. The Saturday, December 15, 2012, deadline has been delayed to Monday, December 17, 2012. The final date for approval of the Due Diligence Review remains Tuesday, January 15, 2013.

Discussion continued about meeting date of January 7, 2013, with a follow-up meeting on January 14, 2013. Moved by Ms. Grilli and seconded by Mr. Knopf, to set the Public Hearing on the Non-Housing Due Diligence Review for January 7, 2013, at 4pm. Motion passed unanimously.

I. No item exists.

J. Next meeting date

Moved by Ms. Grilli and seconded by Mr. Knopf the next Oversight Board meeting be for January 14, 2013, at 4:00 pm. Motion passed unanimously.

CLOSED SESSION

It was determined that a closed session was not necessary for the scheduled item.

ADJOURNMENT

Chair Mendizabal adjourned the meeting at 5:56 pm.

OVERSIGHT BOART STAFF REPORT

MEETING DATE: January 7, 2013

ITEM VI.A: Resolution Directing Successor Agency to Reserve a Portion of the Administrative Cost Allowance for Payment of Oversight Board Administrative & Legal Costs and to Pay such Invoices Immediately

RECOMMENDED ACTION(S):

Adopt Resolution directing the Successor Agency to reserve a portion of the administrative cost allowance for payment of Oversight Board administrative and legal expenses, and direct the Successor Agency to Pay Invoices for those services.

DISCUSSION:

At the November 14, 2012, meeting of the Oversight Board, the Board adopted Resolution No. 7, directing Successor Agency staff to make the Oversight Board staffing changes, and to reflect these changes in the administrative cost budget. These staffing changes did not increase the total administrative cost budget. At that time the Oversight Board Chair was also authorized and directed to contract with the County of Santa Clara for administrative support to the Oversight Board, pursuant to Health and Safety Code section 34179 (o). An MOU for administrative support services between the Oversight Board and the County of Santa Clara was executed on December 18, 2012, with an effective date of November 14, 2012, as directed in the Resolution.

The Oversight Board also directed Successor Agency staff to provide a revised budget reflecting the changes directed by the Oversight Board, as well as a report on the year-to-date expenditures under the current administrative cost budget at the next meeting of the Oversight Board. At the December 12, 2012, meeting of the Oversight Board, Emma Karlen, Oversight Board Member and Finance Director for the City of Milpitas, provided a report on the current administrative budget and a copy of the revised administrative budget reflecting the changes directed by the Oversight Board.

Because Ms. Karlen presented the revised budget, and based on a statement by the Successor Agency's legal counsel indicating that the Successor Agency would pay the Oversight Board's legal and administrative support costs under protest, the Oversight Board did not adopt the Resolution presented to it at the meeting. Instead, the Oversight Board adopted a Resolution (No. 13) which: (1) directed Successor Agency staff to prioritize payment of legal and administration related invoices, (2) indicated the Oversight Board's willingness to revisit this item in the future in the event of a change in Department of Finance's position, and (3) noted the Oversight Board's understanding that the payment of such invoices would be made under protest.

The Oversight Board Chair contacted Successor Agency staff following the December 12th meeting to determine who invoices should be delivered to. The Chair was informed at that time that the Successor Agency would not pay any invoices for the Oversight Board's legal and administrative support costs.

In light of this, staff recommends that the Oversight Board adopt the attached Resolution to supersede the decision of the Successor Agency staff not to pay the Oversight Board's legal and administrative support costs, and to direct the Successor Agency to aside \$130,000 of the administrative cost allowance transmitted to it by the County Auditor-Controller on January 2, 2013, for the payment of Oversight Board legal and administrative support costs. The proposed Resolution also directs the Successor Agency to pay the invoices for legal services within five days of the effective date of the Resolution, and directs that future invoices for Oversight Board legal and administrative support costs for fiscal year

2012-13 be paid promptly from the \$130,000 set aside from the administrative cost allowance. Finally, the Resolution authorizes legal counsel to immediately initiate litigation on behalf of the Oversight Board to compel payment in the event the Successor Agency refuses to remit payments.

FISCAL/RESOURCE IMPACT:

None.

ATTACHMENT(S):

Resolution

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

RESOLUTION NO. ____

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE FORMER MILPITAS REDEVELOPMENT AGENCY DIRECTING
SUCCESSOR AGENCY STAFF TO RESERVE A PORTION OF THE
ADMINISTRATIVE COST ALLOWANCE FOR PAYMENT OF OVERSIGHT
BOARD ADMINISTRATIVE AND LEGAL EXPENSES AND TO PAY SUCH
INVOICES IMMEDIATELY

WHEREAS, the California State Legislature enacted Assembly Bill x1 26 to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code section 33000 et seq.), as amended by Assembly Bill 1484, Statutes of 2012, enacted June 27, 2012 (the “Dissolution Law”); and

WHEREAS, pursuant to Health and Safety Code section 34177, the Oversight Board (the “Oversight Board”) of the Successor Agency of the former Milpitas Redevelopment Agency (the “Successor Agency”) shall direct the expeditious wind down of the affairs of the redevelopment agency, consistent with its fiduciary responsibilities to holders of enforceable obligations and the taxing entities; and

WHEREAS, pursuant to Health and Safety Code sections 34179 (c) and (p), respectively, the Oversight Board, in furtherance of its duties under the Dissolution Law, may direct the staff of the Successor Agency to perform work, and if necessary, may supersede decisions made by the Successor Agency or Successor Agency staff on matters within the purview of the Oversight Board; and

WHEREAS, based on Successor Agency staff’s threats to cancel the November 14, 2012, meeting when asked to prepare the meeting agenda pursuant to the adopted Rules and Regulations of the Oversight Board, the Oversight Board members, with the assistance of counsel, were required to prepare an agenda and the necessary resolutions for posting; and

WHEREAS, all meeting costs must be paid by the Successor Agency through its administrative budget, pursuant to Health and Safety Code section 34179 (c), which includes the cost for legal counsel’s services incurred to prepare the necessary resolutions for the November 14, 2012, meeting; and

WHEREAS, in light of the Successor Agency staff’s initial refusal and delay in providing the necessary and requested administrative services, the Oversight Board determined that it must contract for administrative support, pursuant to Health and Safety Code sections 34179 (o), to substitute for services currently provided to the Oversight Board by the staff of the Successor Agency; and

WHEREAS, at its November 14, 2012, meeting, the Oversight Board adopted Resolution No. 7, attached hereto as Exhibit A and incorporated herein by this reference,

directing Successor Agency staff to make the following Oversight Board staffing changes, and to reflect these changes in the administrative cost budget, to be provided to the Oversight Board at its next meeting. These staffing changes did not increase the total administrative cost budget:

- (1) Oversight Board staff is substituted for the Assistant City Attorney, given that the Assistant City Attorney was assigned to provide services to the Oversight Board, while the City Attorney, due to a conflict, was assigned to provide services to the Successor Agency. \$27,500 was to be reallocated for Oversight Board legal services from October 23, 2012, through the end of the fiscal year.
- (2) Oversight Board staff will also substitute for the Legal Assistant, City Manager, City Clerk, Deputy City Clerk, and Office Specialist, Executive Secretary, Finance Director, Budget Manager, and Accounting Manager in the FY 2012-13 budget. The percentage of time for each of these positions was to be reduced by half for the remaining eight months of the fiscal year; \$102,500 was to be reallocated for administrative support and legal services.

WHEREAS, the Oversight Board Chair, with the assistance of Oversight Board legal counsel, was authorized and directed to contract with the County of Santa Clara for administrative support to the Oversight Board, pursuant to Health and Safety Code section 34179 (o), subject to the following terms: (1) initially, the maximum fee payable under the MOU shall not exceed \$50,000; (2) the MOU shall be effective November 14, 2012, through December 31, 2013; (3) invoices shall be delivered directly to the Chair; and (4) the Chair shall direct the Successor Agency, or an alternative administrative entity as may be procured by the Chair, to timely pay invoices in the manner set forth in the MOU;

WHEREAS, an MOU for administrative support services between the Oversight Board and the County of Santa Clara was executed on December 18, 2012;

WHEREAS, the Oversight Board directed Successor Agency staff to: (1) work cooperatively with the Oversight Board and the Oversight Board's contracted staff to turn over any Oversight Board records requested within five business days, (2) to ensure the timely payment of invoices for legal and administrative support services, and (3) to provide any and all other assistance necessary to transfer and carry out administrative support responsibilities in a timely manner;

WHEREAS, the Oversight Board also directed Successor Agency staff to provide a revised budget reflecting the changes directed by the Oversight Board, as well as a report on the year-to-date expenditures under the current administrative cost budget at the next meeting of the Oversight Board;

WHEREAS, the City Manager, on December 10, 2012, requested that the Oversight Board continue the December 12, 2012, agenda item, which included a Report

from Successor Agency staff on the year-to-date expenditures under the current administrative budget;

WHEREAS, the Oversight Board voted not to continue the item, and instead Emma Karlen, Oversight Board Member and Finance Director for the City of Milpitas, provided a report on the current administrative budget and a copy of the revised administrative budget reflecting the changes directed by the Oversight Board;

WHEREAS, the Oversight Board did not adopt the draft Resolution presented at the meeting, based on a statement by the Successor Agency's legal counsel indicating that the Successor Agency would pay the Oversight Board's legal and administrative support costs under protest;

WHEREAS, in light of that statement, the Oversight Board instead adopted Resolution No. 13, attached hereto as Exhibit B and incorporated herein by this reference, which: (1) directed Successor Agency staff to prioritize payment of legal and administration related invoices, (2) indicated the Oversight Board's willingness to revisit this item in the future in the event of a change in Department of Finance's position, and (3) noted the Oversight Board's understanding that the payment of such invoices would be made under protest;

WHEREAS, upon further inquiry, Successor Agency staff has indicated that, contrary to the statements made by the Successor Agency's legal counsel, the Successor Agency will not pay any invoices for the Oversight Board's legal and administrative support costs;

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board hereby supersedes the decision of Successor Agency staff not to pay the Oversight Board's legal and administrative support costs, and directs the Successor Agency to set aside \$130,000 of the administrative cost allowance transmitted to it by the County Auditor-Controller on January 2, 2013, for the payment of Oversight Board legal and administrative support costs; and

BE IT FURTHER RESOLVED that the Oversight Board directs the Successor Agency to pay the invoices for legal costs and expenses, transmitted to the Successor Agency and attached hereto as Exhibit C, within five days of the effective date of this Resolution;

BE IT FURTHER RESOLVED that the Oversight Board directs that future invoices for Oversight Board legal and administrative support costs provided in fiscal year 2012-13 shall be paid promptly from the \$130,000 set aside from the administrative cost allowance; and

BE IT FURTHER RESOLVED that, in the event the Successor Agency refuses to remit payment pursuant to the attached invoices within five days, the Oversight Board

authorizes its legal counsel to immediately initiate litigation on behalf of the Oversight Board to compel such payment.

PASSED AND ADOPTED this 7th day of January, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump, Oversight Board Secretary

Michael Mendizabal, Oversight Board Chair

RESOLUTION NO. 7

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS REDEVELOPMENT AGENCY DIRECTING SUCCESSOR AGENCY STAFF TO PROVIDE A REPORT ON THE YEAR-TO-DATE EXPENDITURES UNDER THE CURRENT ADMINISTRATIVE BUDGET, TO SUBSTITUTE LEGAL COUNSEL AND STAFF UNDER THE APPROVED ADMINISTRATIVE BUDGET, AND DIRECT STAFF TO ASSIST IN THE TRANSFER OF RESPONSIBILITIES

WHEREAS, the California State Legislature enacted Assembly Bill x1 26 to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code section 33000 et seq.), as amended by Assembly Bill 1484, Statutes of 2012, enacted June 27, 2012 (the "Dissolution Law"); and

WHEREAS, pursuant to Health and Safety Code section 34177, the Oversight Board (the "Oversight Board") of the Successor Agency of the former Milpitas Redevelopment Agency (the "Successor Agency") shall direct the expeditious wind down the affairs of the redevelopment agency consistent with its fiduciary responsibilities to holders of enforceable obligations and the taxing entities; and

WHEREAS, pursuant to Health and Safety Code sections 34179 (c) and (p), respectively, the Oversight Board, in furtherance of its duties under the Dissolution Law, may direct the staff of the successor agency to perform work, and if necessary, may supersede decisions made by the Successor Agency or Successor Agency staff on matters within the purview of the Oversight Board; and

WHEREAS, pursuant to Health and Safety Code sections 34179 (n), on October 23, 2012, the Oversight Board adopted Resolution No. 5, appointing the firm of Miller & Owen as outside legal counsel to the Oversight Board due to the divergence of interests among the City, the Milpitas Economic Development Corporation ("EDC"), and the Successor Agency; and

WHEREAS, the State Department of Finance, by letter dated November 1, 2012, determined that general legal services for the Oversight Board are considered an enforceable obligation subject to the administrative cost allowance outlined in Health and Safety Code section 34171 (b); and

WHEREAS, since receiving the State Department of Finance's letter, discussions and correspondence between Successor Agency staff and the members of the Oversight Board, attached hereto as Exhibit A, have demonstrated the need for the Oversight Board to contract for administrative support, pursuant to Health and Safety Code sections 34179 (o), to substitute for services currently provided to the Oversight Board by the staff of the Successor Agency; and

WHEREAS, based on Successor Agency staff's refusal to prepare the November 14, 2012, agenda as requested by the Oversight Board pursuant to the adopted Rules and Regulations, the Oversight Board members, with the assistance of legal counsel, were required to prepare the agenda and necessary resolutions; and

WHEREAS, all meeting costs must be paid by the Successor Agency through its administrative budget, pursuant to Health and Safety Code section 34179 (c), which includes the cost for legal counsel's services incurred to prepare the budget and resolutions for the November 14, 2012, meeting; and

WHEREAS, in light of Successor Agency staff's refusal to provide the necessary and requested administrative services, the Oversight Board has determined that it must contract for administrative support, pursuant to Health and Safety Code sections 34179 (o), to substitute for services currently provided to the Oversight Board by the staff of the Successor Agency; and

WHEREAS, Santa Clara County has expressed its willingness to provide administrative support to the Oversight Board; and

WHEREAS, the Oversight Board directs Successor Agency staff to prorate the administrative cost budget to reflect that substitute staff and legal counsel shall be provided for the final three-quarters of the fiscal year, and to reflect that the provision of legal and administrative services to the Oversight Board by substitute staff and counsel will result in a 50% reduction in the percentage of time devoted by certain Successor Agency staff to the wind down the affairs of the former redevelopment agency.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board hereby directs Successor Agency staff to make the following Oversight Board staffing changes, and to reflect these changes in the administrative cost budget which shall be provided to the Oversight Board at its next meeting. These staffing changes will not increase the total administrative cost budget:

- (1) Oversight Board staff will substitute for the Assistant City Attorney, given that the Assistant City Attorney was assigned to provide services to the Oversight Board, while the City Attorney, due to a conflict, was assigned to provide services to the Successor Agency. \$27,500 shall be reallocated for Oversight Board legal services from October 23, 2013, through the end of the fiscal year.
- (2) Oversight Board staff will also substitute for the Legal Assistant, City Manager, City Clerk, Deputy City Clerk, and Office Specialist, Executive Secretary, Finance Director, Budget Manager, and Accounting Manager in the FY 2012-13 budget. The percentage of time for each of these positions shall be reduced by half for the remaining eight months of the fiscal year; \$102,500 shall be reallocated for administrative support and legal services.

BE IT FURTHER RESOLVED that the amounts set forth above are based on the approved Administrative Cost Budget. However, in the event that these amounts are disputed, whatever amounts are available shall be reallocated, consistent with the formula utilized above and the intent of this Resolution.

BE IT FURTHER RESOLVED that the Oversight Board Chair, with the assistance of legal counsel, is authorized and directed to contract with the County of Santa Clara for administrative support to the Oversight Board, pursuant to Health and Safety Code section 34179 (o), subject to the following terms: (1) initially, the maximum fee payable under the MOU shall

PASSED AND ADOPTED this 14th day of November, 2012 by the following vote:

AYES: (5) Chair Gage, Vice Chair Mendizabal and Board Members Grilli, Knopf and Murdter

NOES: (2) Board Members Gomez and Karlen

ABSENT: (0)

ABSTAIN: (0)

ATTEST:


Mary Lavelle, Oversight Board Secretary

APPROVED:


Donald Gage, Chair

EXHIBIT A

Attached Correspondence

Subject: FW: RE: Milpitas OB Action Letter

From: Don Gage [<mailto:dongage@verizon.net>]
Sent: Tuesday, November 06, 2012 3:09 PM
To: Nancy Miller
Subject: Fwd: RE: Milpitas OB Action Letter

-----Original Message-----

From: Tom Williams
Date: Nov 6, 2012 2:33:50 PM
Subject: RE: Milpitas OB Action Letter
To: "Knopf, Bruce" <bruce.knopf@ceo.sccgov.org>
Cc: Mary Lavelle <mlavelle@ci.milpitas.ca.gov>, "Harrison, Emily" <emily.harrison@ceo.sccgov.org>, 'Don Gage' <dongage@verizon.net>, City Council <city_council@ci.milpitas.ca.gov>, Mike Ogaz <mogaz@ci.milpitas.ca.gov>, Bryan Otake <botake@ci.milpitas.ca.gov>

Bruce:

You have a history of interpreting the laws to meet your special interest and bully staff in an overwhelming attempt to benefit the County at the cost of the City of Milpitas. The November 1, 2012, DOF letter does not by any means return the actions of the OB back to the OB for reconsideration. It simply states DOF will not recognize the cost of outside legal counsel for reimbursement on a ROPS. The DOF has already provided final approval on ROPS 3 and there is no mechanism to amend by the OB. Sec. 34179(h) states the DOF decision is final after 5 days unless they (DOF) request a review - not you Bruce. The OB is not granted the power to request a review once DOF decision is final. That is to say only the DOF can return an action of the OB for reconsideration. The OB is not granted the same power - although you are attempting to grab that same power. You are over stepping your boundaries here Bruce. Unless there is another mechanism, such as funding the cost of Miller & Owen by the County or the other taxing entities that benefit, such as the Water District, Milpitas Unified School District, the County or Community College District, there is no funding source available. And yes, it is my power to manage the adopted administrative budget and take the final direction from DOF. As such, we will be canceling the meeting of November 14 at 4:00pm.

Thomas C. Williams
City Manager
City of Milpitas
(408) 586.3050

-----Original Message-----

From: Knopf, Bruce [<mailto:bruce.knopf@ceo.sccgov.org>]
Sent: Tuesday, November 06, 2012 7:12 AM

To: Tom Williams

Cc: Mary Lavelle; Harrison, Emily; Michael Mendizabal; City Council; Mike Ogaz; Bryan Otake

Subject: Re: Milpitas OB Action Letter

Tom,

The November 1st letter from DOF returned the Oversight Board's action to the Board for reconsideration.

You have been directed by the Oversight Board to place two items on the Board's next agenda in order that the Oversight Board can reconsider and resubmit a modified action for Department of Finance approval pursuant to 34179(h). You have been given specific wording for the agenda item titles.

Actions of the Oversight Board supersede that of Successor Agency staff - 34179(p). You have no authority to refuse this request.

Bruce Knopf

Director

Asset and Economic Development

County of Santa Clara

408.219.9811

Sent from my iPhone

On Nov 5, 2012, at 9:28 PM, "Tom Williams" <twilliams@ci.milpitas.ca.gov> wrote:

> Bruce:

>

> I cannot obligate the City of Milpitas to carry the cost of the OB. There needs to be another source of funds guaranteed to the City of Milpitas before we move forward. I am open to ideas but the City of Milpitas cannot afford to move forward in this manner. You are using City staff resources without a legal funding mechanism. The OB agreed to obtain an opinion from the State DOF and that opinion states they will not recognize payment of outside legal counsel.

>

> Thomas C. Williams

> City Manager

> City of Milpitas

> (408) 586.3050

>

> -----Original Message-----

> From: Knopf, Bruce [<mailto:bruce.knopf@ceo.sccgov.org>]

> Sent: Monday, November 05, 2012 7:06 PM

> To: Tom Williams

> Cc: Mary Lavelle; Harrison, Emily; Michael Mendizabal
> Subject: RE: Milpitas OB Action Letter
>
> Tom,
> These items have been put forward for placement on the Board's next agenda by two Oversight Board Members consistent with the process outlined in the adopted Rules and Procedures for setting the Agenda. On what authority are you deciding to reject the request?
> Bruce
>
> -----Original Message-----
> From: Tom Williams [<mailto:twilliams@ci.milpitas.ca.gov>]
> Sent: Monday, November 05, 2012 4:40 PM
> To: Knopf, Bruce
> Cc: Mary Lavelle; Harrison, Emily; Michael Mendizabal; City Council; Mike Ogaz; Bryan Otake
> Subject: RE: Milpitas OB Action Letter
>
> Bruce:
>
> Given the past practice of the Board and the inherent conflict I chose not to take that risk. I need assurances that the City of Milpitas is not a risk for funding actions of the OB.
>
> Thomas C. Williams
> City Manager
> City of Milpitas
> (408) 586.3050
>
>
> -----Original Message-----
> From: Knopf, Bruce [<mailto:bruce.knopf@ceo.sccgov.org>]
> Sent: Monday, November 05, 2012 4:02 PM
> To: Tom Williams
> Cc: Mary Lavelle; Harrison, Emily; Michael Mendizabal
> Subject: RE: Milpitas OB Action Letter
>
> And the Board may well decide to put things on hold. However, these items have been put forward for placement on the Board's next agenda consistent with the process outlined in the adopted Rules and Procedures for setting the Agenda.
> Bruce
>
> -----Original Message-----
> From: Tom Williams [<mailto:twilliams@ci.milpitas.ca.gov>]
> Sent: Monday, November 05, 2012 3:42 PM
> To: Knopf, Bruce

> Cc: Mary Lavelle; Harrison, Emily; Michael Mendizabal; City Council; 'Don Gage'; Mike Ogaz; Bryan Otake; Emma Karlen
> Subject: RE: Milpitas OB Action Letter
>
> Bruce:
>
> I am placing these items on hold until we reconcile the funding issue. The administrative budget per ROPS 3 has already been allocated and committed per the 3% cap through June 30, 2013. I need to know how City staff will be paid if you reallocate funds away from the approved budget to outside legal counsel.
>
> Thomas C. Williams
> City Manager
> City of Milpitas
> (408) 586.3050
>
>
> -----Original Message-----
> From: Knopf, Bruce [<mailto:bruce.knopf@ceo.sccgov.org>]
> Sent: Monday, November 05, 2012 3:36 PM
> To: Tom Williams
> Cc: Mary Lavelle; Harrison, Emily; Michael Mendizabal
> Subject: RE: Milpitas OB Action Letter
>
> Tom,
> My emails this morning were directed to you or were copied to you.
> I and committee member Mike Mendizabal, have requested that two items be placed on the Agenda for the next Oversight Board meeting:
>
> "Reconsideration of Resolution Approving Contract for Legal Services with Miller & Owen."
>
> "Adoption of Resolution Amending Successor Agency Administrative Budget, consistent with Department of Finance Letter of November 1, 2012."
>
> Please confirm that these items will be placed on the agenda as they appear above.
> Bruce
>
> -----Original Message-----
> From: Tom Williams [<mailto:twilliams@ci.milpitas.ca.gov>]
> Sent: Monday, November 05, 2012 12:13 PM
> To: Knopf, Bruce
> Cc: City Council; Mike Ogaz; Bryan Otake; Mary Lavelle; Harrison, Emily
> Subject: FW: Milpitas OB Action Letter
> Importance: High

>
> Bruce:
>
> In the future, please do not direct City of Milpitas or Successor Agency staff to perform any duties without my authorization. If you have any requests please address those through my office and I will allocate resources as necessary and legally appropriate.
>
> Thomas C. Williams
> City Manager
> City of Milpitas
> (408) 586.3050
>
>
> -----Original Message-----
> From: Tom Williams
> Sent: Monday, November 05, 2012 12:06 PM
> To: 'Knopf, Bruce'; Mary Lavelle
> Cc: Nancy Miller; Mike Ogaz; Armando Gomez; Bryan Otake; dongage@verizon.net; Emma Karlen; Felix Reliford; Williams, Glen; Jane Corpus Takahashi; Marsha Grilli; Max Overland; michael.murdter@rda.sccgov.org; Michael Mendizabal; Phuong Le; Haggerty, Rebecca; Toby.Wong@doc.sccgov.org; tonye@legalaidsociety.org; City Council; Jennifer Gore
> Subject: RE: Milpitas OB Action Letter
> Importance: High
>
> Bruce:
>
> Pursuant to the law, as I understand it, you are not authorized to take such action. Mary, please do not proceed until we obtain a legal opinion.
>
> Thomas C. Williams
> City Manager
> City of Milpitas
> (408) 586.3050
>
> -----Original Message-----
> From: Knopf, Bruce [<mailto:bruce.knopf@ceo.sccgov.org>]
> Sent: Monday, November 05, 2012 11:58 AM
> To: Mary Lavelle
> Cc: Tom Williams; Nancy Miller; Mike Ogaz; Armando Gomez; Bryan Otake; dongage@verizon.net; Emma Karlen; Felix Reliford; Williams, Glen; Jane Corpus Takahashi; Marsha Grilli; Max Overland; michael.murdter@rda.sccgov.org; Michael Mendizabal; Phuong Le; Haggerty, Rebecca; Toby.Wong@doc.sccgov.org; tonye@legalaidsociety.org; City Council; Jennifer Gore
> Subject: Re: Milpitas OB Action Letter

>
> Mary
> Please also include an agenda item for "Adoption of Resolution Amending Successor Agency Administrative Budget."

>
> Thanks.

>
> Bruce Knopf
> Director
> Asset and Economic Development
> County of Santa Clara
> 408.219.9811
> Sent from my iPhone

>
>
> On Nov 5, 2012, at 11:42 AM, "Knopf, Bruce"
<bruce.knopf@ceo.sccgov.org<<mailto:bruce.knopf@ceo.sccgov.org>>> wrote:

>
> Tom,
> A revised resolution will be brought to the Oversight Board at the next meeting to approve the legal services contract with Miller & Owen consistent with the State Department of Finance letter of November 1, 2012.

>
> Mary,
> Would you please place on the next Agenda an item for "Reconsideration of Resolution Approving Contract for Legal Services with Miller & Owen."

> Bruce

>
> From: Tom Williams [<mailto:twilliams@ci.milpitas.ca.gov>]
> Sent: Monday, November 05, 2012 11:04 AM
> To: 'Nancy Miller'
> Cc: Mike Ogaz; Armando Gomez; Knopf, Bruce; Bryan Otake;
<dongage@verizon.net<<mailto:dongage@verizon.net>>; Emma Karlen; Felix Reliford;
Williams, Glen; Jane Corpus Takahashi; Marsha Grilli; Max Overland ;
<michael.murdter@rda.sccgov.org<<mailto:michael.murdter@rda.sccgov.org>>; Michael Mendizabal; Mike Ogaz; Phuong Le; Haggerty, Rebecca;
<Toby.Wong@doc.sccgov.org<<mailto:Toby.Wong@doc.sccgov.org>>;
<tonye@legalaidsociety.org<<mailto:tonye@legalaidsociety.org>>; City Council; Jennifer Gore; Bryan Otake
> Subject: RE: Milpitas OB Action Letter

>
> Thank you Nancy. Please be advised that neither the City of Milpitas, Milpitas Successor Agency nor Milpitas Economic Development Corporation will be responsible for the cost of any services rendered by your firm. The City of Milpitas uses its discretionary authority to not obligate itself for services rendered by your firm pursuant to §34173 (h). I agreed to a

cap of \$2,500 with the understanding from County Counsel and Board Member Knopf that the State Department of Finance would acknowledge payment of your costs on future ROPS. As you know, we received a letter from State DOF that indicates otherwise. As such, I am asking you to stop work since the City of Milpitas will not be reimbursed the \$2,500.

>
> Thank you and please let me know if you have questions.

>
> Thomas C. Williams
> City Manager
> City of Milpitas
> (408) 586.3050
> <image001.jpg>

>
> From: Nancy Miller [mailto:miller@motlaw.com]
> Sent: Friday, November 02, 2012 4:46 PM
> To: Tom Williams
> Cc: Mike Ogaz; Armando Gomez;
bruce.knopf@ceo.sccgov.org<mailto:bruce.knopf@ceo.sccgov.org>; Bryan Otake;
dongage@verizon.net<mailto:dongage@verizon.net>; Emma Karlen; Felix Reliford; Glen
Williams; Jane Corpus Takahashi; Marsha Grilli; Max Overland ;
michael.murdter@rda.sccgov.org<mailto:michael.murdter@rda.sccgov.org>; Michael
Mendizabal; Mike Ogaz; Phuong Le;
Rebecca.Haggerty@fin.sccgov.org<mailto:Rebecca.Haggerty@fin.sccgov.org>;
Toby.Wong@doc.sccgov.org<mailto:Toby.Wong@doc.sccgov.org>;
tonye@legalaidsociety.org<mailto:tonye@legalaidsociety.org>; City Council; Jennifer
Gore

> Subject: RE: Milpitas OB Action Letter

>
> Tom:

>
> Thank you for your email, but I represent the oversight board, and until they instruct me otherwise I will proceed with services as directed.

>
> Please feel free to call me if you have any questions.

>
> Best,
> Nancy

>
> Sent from my iPhone

>
> MILLER & OWEN
> A Professional Corporation

>
> Phone: (916) 447-7933

> Fax: (916) 447-5195

> *****

> The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please contact the sender and delete the material from any computer.

>

>

> From: Tom Williams [<mailto:twilliams@ci.milpitas.ca.gov>]

> Sent: Friday, November 02, 2012 10:43 AM

> To: Nancy Miller

> Cc: Mike Ogaz; Armando Gomez; Bruce Knopf

(bruce.knopf@ceo.sccgov.org<<mailto:bruce.knopf@ceo.sccgov.org>>); Bryan Otake; Don

Gage (dongage@verizon.net<<mailto:dongage@verizon.net>>); Emma Karlen; Felix

Reliford; Glen Williams; Jane Corpus Takahashi; Marsha Grilli; Max Overland ; Michael

Murdter (michael.murdter@rda.sccgov.org<<mailto:michael.murdter@rda.sccgov.org>>);

Michael Mendizabal; Mike Ogaz; Phuong Le; Rebecca Haggerty

(Rebecca.Haggerty@fin.sccgov.org<<mailto:Rebecca.Haggerty@fin.sccgov.org>>); Toby

Wong (Toby.Wong@doc.sccgov.org<<mailto:Toby.Wong@doc.sccgov.org>>); Tony

Estremera (tonye@legalaidsociety.org<<mailto:tonye@legalaidsociety.org>>); City Council

> Subject: FW: Milpitas OB Action Letter

>

> Nancy:

>

> As a result of the attached letter from DOF, there are no funds available to pay for your legal services. As such, I would recommend that your firm stop work and not incur any costs associated with the Milpitas Oversight Board. Please contact me if you have any questions.

>

>

> Thomas C. Williams

> City Manager

> City of Milpitas

> (408) 586.3050

> <[image001.jpg](#)>

>

> From: Tom Williams

> Sent: Friday, November 02, 2012 10:15 AM

> To: Armando Gomez; Bruce Knopf

(bruce.knopf@ceo.sccgov.org<<mailto:bruce.knopf@ceo.sccgov.org>>); Bryan Otake; Don

Gage (dongage@verizon.net<<mailto:dongage@verizon.net>>); Emma Karlen; Felix

Reliford; Glen Williams; Jane Corpus Takahashi; Marsha Grilli; Max Overland ; Michael

Murdter (michael.murdter@rda.sccgov.org<<mailto:michael.murdter@rda.sccgov.org>>);

Michael Mendizabal; Mike Ogaz; Phuong Le; Rebecca Haggerty (Rebecca.Haggerty@fin.sccgov.org<<mailto:Rebecca.Haggerty@fin.sccgov.org>>); Toby Wong (Toby.Wong@doc.sccgov.org<<mailto:Toby.Wong@doc.sccgov.org>>); Tony Estremera (tonye@legalaidsociety.org<<mailto:tonye@legalaidsociety.org>>)

> Subject: FW: Milpitas OB Action Letter

>

> To Milpitas Oversight Board:

>

> The legal contract with Miller Owen was denied by DOF as an enforceable obligation item.

>

>

> Thomas C. Williams

> City Manager

> City of Milpitas

> (408) 586.3050

> <image001.jpg>

>

>

> From: Redevelopment Administration

[<mailto:RedevelopmentAdministration@dof.ca.gov>]

> Sent: Thursday, November 01, 2012 5:41 PM

> To: Emma Karlen; Jane Corpus Takahashi;

irene.lui@fin.sccgov.org<<mailto:irene.lui@fin.sccgov.org>>; 'RDA-

SDsupport@sco.ca.gov<<mailto:RDA-SDsupport@sco.ca.gov>>' (RDA-

SDsupport@sco.ca.gov<<mailto:RDA-SDsupport@sco.ca.gov>>)

> Subject: Milpitas OB Action Letter

>

> The Successor Agency to the Milpitas Redevelopment Agency notified the California Department of Finance of its October 23, 2012 Oversight Board (OB) resolution on October 30, 2012. Please see the attached letter for Finance's determination of the OB resolution No. 5.

>

> Department of Finance

> Redevelopment Agency Administration

>

RESOLUTION NO. 13

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE FORMER MILPITAS REDEVELOPMENT AGENCY
PRIORITIZE THE PAYMENT OF ADMINISTRATIVE EXPENSES FROM THE
CURRENT ADMINISTRATIVE BUDGET**

BE IT RESOLVED that the Oversight Board direct the Successor Agency staff to prioritize payment of administration related invoices (pursuant to contracted administrative services from the County and services performed by Oversight Board Legal Counsel), and that at any future time if there's a change in the California Department of Finance position, that the item be revisited. We understand the Successor Agency would implement this under protest.

PASSED AND ADOPTED this 12th day of December, by the following vote:

AYES:(7) Chair Mendizabal, Board Members Grilli, Karlen, Knopf, Reliford, Williams and Wong

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST:



Barbara Crump, Oversight Board Secretary

APPROVED:



Oversight Board Chair

Exhibit C

Miller & Owen
428 J Street, Suite 400
Sacramento, CA 95814
(916) 447-7933

Milpitas Oversight Board
c/o Mike Mendizabal
mikemendizabal@hotmail.com

October 31, 2012

In the matter of: Oversight Board Services

Our file number: MI937

Invoice Number: 29532

	<u>Hours</u>	<u>Amount</u>
Total Fees Charges	10.00	\$2,384.00
Total Expense Charges		\$121.00
		<hr/>
Total amount of this bill		\$2,505.00
Previous balance		\$0.00
		<hr/>
TOTAL AMOUNT DUE		\$2,505.00

Miller & Owen
428 J Street, Suite 400
Sacramento, CA 95814
(916) 447-7933

Milpitas Oversight Board
c/o Mike Mendizabal
mikemendizabal@hotmail.com

November 30, 2012

In the matter of: Oversight Board Services

Our file number: MI937

Invoice Number: 29592

	<u>Hours</u>	<u>Amount</u>
Total Fees Charges	50.70	\$11,364.00
Total Expense Charges		\$0.00
		<hr/>
Total amount of this bill		\$11,364.00
Previous balance		\$2,505.00
		<hr/>
TOTAL AMOUNT DUE		\$13,869.00

OVERSIGHT BOART STAFF REPORT

MEETING DATE: January 7, 2013

ITEM VI.B: UPDATE ON PROPOSED STANDSTILL AGREEMENT BETWEEN OVERSIGHT BOARD, MILPITAS EDC, AND THE CITY OF MILPITAS

RECOMMENDED ACTION(S):

Receive an update from the ad hoc committee charged with negotiating a Standstill Agreement between the Milpitas Economic Development Corporation ("MEDC"), the City of Milpitas, the Successor Agency, and the Oversight Board.

DISCUSSION:

On November 14, 2012, this Oversight Board, by unanimous vote, authorized legal counsel to negotiate the terms of a "Standstill Agreement," and directed counsel to provide agreed upon terms to the Oversight Board by December 12, 2012.

At the December 12, 2012, Oversight Board meeting, in the absence of agreed upon terms for the standstill agreement, the Oversight Board appointed an ad hoc committee, including Board members Grilli, Karlen, and Knopf, to work with the City Attorney and the Oversight Board's legal counsel to negotiate a standstill agreement with MEDC, whereby the MEDC agrees to preserve the assets transferred from the former Redevelopment Agency and/or the City, consistent with the following principles:

- 1) The MEDC will not enter into any new contracts effective immediately
- 2) The MEDC will incur no new financial obligations of any sort while the standstill agreement is in place, effective immediately.
- 3) Future expenses of the EDC on existing liabilities, up to \$447,230.06, will be paid by the City of Milpitas.

The Oversight Board requested that the ad hoc committee bring a draft agreement back for its approval at its next meeting.

Following the Oversight Board meeting on December 12th, Miller & Owen provided a revised draft agreement to the City Attorney, the terms of which were consistent with the direction provided by the Oversight Board. The City Attorney advised the ad hoc committee during the negotiation process that Successor Agency staff would not recommend to the City Council or the MEDC that the City's General Fund pay the outstanding existing liabilities in the amount of \$447,230.06. The MEDC met on December 18th and agreed to a draft standstill agreement, however, the terms of that agreement were not consistent with the terms proposed by the ad hoc committee.

The ad hoc committee has proposed several revisions to the standstill agreement approved by the MEDC on December 18th, and expects that it will have a draft standstill agreement to present to the Oversight Board at the January 14, 2013, meeting.

Given the ad hoc committee's progress, should the Oversight Board wish to discuss potential remedies other than the proposed Standstill Agreement, Counsel recommends that the Board adjourn to closed session.

FISCAL/RESOURCE IMPACT:

None.

ATTACHMENT(S):

Resolution

Prepared by: Jennifer Gore
Oversight Board Legal Counsel