

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, February 25, 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 FOR JANUARY 14, 2013, MEETING

IV. APPROVAL OF AGENDA

V. NEW BUSINESS:

- A. Approve Successor Agency's Administrative Budget for July to December 2013
- B. Approve Recognized Obligation Payment Schedule for July to December 2013
- C. Consider Future Agenda Item to Ratify the Disposition and Conveyance of Specified Governmental Use Buildings and Public Improvements Previously Conveyed to the City of Milpitas, and Direct and Approve the Transfer of Specified Governmental Use Buildings and Public Improvements to the City of Milpitas for Continued Governmental Use, Operation, and Maintenance

VI. OLD BUSINESS:

- A. Consider Resolution Approving Standstill Agreement between Milpitas Economic Development Corporation, City of Milpitas, and Successor Agency
- B. Receive Progress Report from Ad Hoc Committee on Status of Public Records Act Request to Milpitas Economic Development Corporation and Provide Direction to Staff, if Necessary
- C. Receive Update on Status of Payment for Oversight Board's Administrative Expenses, including Administrative Support and Legal Services, and Adopt Resolutions Directing Payment and Extending Legal Services Contract

VII. AGENDA ITEMS FOR NEXT MEETING

VIII. SET NEXT MEETING DATE

IX. CLOSED SESSION – ANTICIPATED LITIGATION:

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

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 the 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 contact the Board Clerk as soon as possible. The Board Clerk may be reached at barb.crump@gmail.com.

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MILPITAS OVERSIGHT BOARD MEETING

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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 of the January 14, 2013, Meeting

CALL TO ORDER Chair Mendizabal called the meeting to order at 4:01 pm.

ROLL CALL **MEMBERS PRESENT:** Mike Mendizabal, Armando Gomez, Marsha Grilli, Emma Karlan, Bruce Knopf, Mike Murdter & Toby Wong

MEMBERS ABSENT: None

PUBLIC FORUM None.

MEETING MINUTES

Consider approval of Meeting Minutes of January 7, 2013, and revised Minutes of December 12, 2012.

Ms. Karlen requested the following change to the January 7, 2013, Draft Minutes: under New Business, Item A, page 2, the last paragraph beginning with "Ms Karlen also distributed" should be revised to state "and on behalf of the *Successor Agency, City of Milpitas and Milpitas Economic Development Corporation (MEDC) collectively referred to as the "Milpitas Entities."*

Moved by Mr. Gomez and seconded by Mr. Murdter the draft minutes from January 7, 2013 (as amended) and the revised minutes of December 12, 2012 were approved unanimously.

APPROVAL OF AGENDA

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

NEW BUSINESS

A. Administrative Clean-Up to Adopt Resolutions 10, 11, 12 and 14, Reflecting Motions Made at the December 12, 2012, Meeting.

Ms. Jennifer Gore, legal counsel to the Oversight Board, presented the staff report and the revised Resolutions 10, 11, 12, and 14. Moved by Mr. Murdter and seconded by Ms. Grilli, to approve the four resolutions, which passed unanimously.

B. Due Diligence Review

B.1. Consider Loans to City of Milpitas Identified through the Due Diligence Review for All Other Funds, Excluding Low and Moderate Income Housing Funds.

Ms. Gore presented the staff report. Following an extensive discussion by the Oversight Board, legal counsel, and staff to the Successor Agency, Mr. Knopf moved that the Oversight Board approve the proposed Resolution directing the Successor Agency for the former RDA to call the loan from the City totaling \$6,988,206, with the following amendment: add a third recital on the first page of the Resolution stating "Whereas pursuant to Health & Safety code 34179.5 (b) (1), payables on demand shall be treated as cash equivalents." The motion was seconded by Director Murdter.

After a lengthy opportunity for public comment and further discussion by the Oversight Board, the Resolution failed by the following vote: Ayes: Knopf, Wong, Murdter Noes: Grilli, Karlen, Gomez and Mendizabal.

B.2. Consider Approval of Due Diligence Review for All Other Funds, Excluding Low and Moderate Income Housing Funds, for Successor Agency to former Milpitas RDA

Ms. Gore presented the staff report and explained that since the staff report was prepared, an addendum to the DDR had been supplied by the County Finance Agency, which provided a new Attachment B revising that the amount to be remitted to the Auditor-Controller for distribution to taxing entities from \$31,877,702 to \$38,875,908. In addition, the County Finance Agency also provided a response to the Milpitas Entities objections to the DDR.

Ms. Karlen made a motion, seconded by Mr. Gomez, to adopt a resolution to drop the \$6,998,206 from the \$38,875,908 to make it \$31,877,702.

Ms. Karlen then made a Second motion, seconded by Mr. Gomez, to adopt a resolution to postpone this report for one week in order to sit down with the County Controller-Auditor to understand these issues. Ms. Karlen withdrew her first motion.

The Oversight Board discussed the proposal to postpone action on this item by one week. Mr. Murdter asked Ms. Gore when the DDR was due and if there is a penalty for being late due to postponement. Ms. Gore responded that it was due January 15, 2013, and added that she believes there are no penalties associated with a late approval.

After additional discussion, the motion to postpone action on this item failed by the following vote: Ayes: Karlen, Gomez, Grilli Noes: Wong, Murdter Knopf and Mendizabal.

The Oversight Board resumed its discussion of the DDR, the Addendum, and the response letter provided by the County Finance Agency.

After an extensive discussion by the Oversight Board, legal counsel, County staff, and Successor Agency staff, Mr. Knopf suggested that the Board incorporate a new recital in the proposed Resolution requesting that DOF consider how to handle non-monetary assets that may be represented in the DDR, and also that they consider an installment payment plan.

Following additional discussion, Ms. Gore also suggested revising the proposed Resolution at the bottom of page 2 to strike the following language: "(1) adjusts the Un-obligated Cash Balance as reported on the non-housing Due Diligence Review from \$31,877,702 to \$38,875,908," and renumbering the subsections of the paragraph accordingly

Mr. Murdter moved to approve Resolution as revised with the changes discussed. Mr. Knopf offered a second, with a friendly amendment to add a paragraph requesting that DOF consider non-monetary assets as they are represented in

the DDR, and consider an installment payment plan. Mr. Murdter accepted Mr. Knopf's amendment to the Resolution. After additional discussion, the motion passed by the following vote: Ayes: Mendizabal, Knopf, Murdter, Wong. Noes: Gomez, Grilli, Karlen.

OLD BUSINESS

A. Resolution Approving Standstill Agreement between Milpitas Economic Development Corporation, City of Milpitas, and Successor Agency

Ms. Gore requested that this item be discussed in closed session in order to present a draft agreement to the Oversight Board.

Mr. Ogaz commented that the standstill agreement has one provision that the City objects to because it has to do with the payment of the legal and administration fees. The City does not feel this should be part of the Standstill Agreement which is a separate issue. The Standstill Agreement without that provision is something the City Council might find agreeable but with that provision, it is objectionable.

Moved by Mr. Knopf and seconded by Mr. Murdter to adopt a resolution to continue discussion of Item A to closed session which passed unanimously.

B. Receive Progress Report from Ad Hoc Committee on Status of Public Records Act Request to Milpitas Economic Development Corporation and Provide Direction to Staff, if Necessary.

Ms. Gore presented the staff report.

Mr. Ogaz commented that the MEDC has complied with the PRA request indicating that requested documents have been produced and that the MEDC is now in compliance. Mr. Ogaz added that the City maintains the position that MEDC is not subject to the PRA and that these documents are being produced voluntarily.

Ms. Gore indicated that she had not received the final documents. Mr. Ogaz indicated that he believed they had been sent via e-mail. Ms. Gore and Mr. Ogaz suggested the item be continued to the next meeting to give staff an opportunity to discuss the status of the item further.

Moved by Mr. Knopf and seconded by Ms. Grilli to adopt a resolution to continue this item to the next meeting which passed unanimously.

Mr. Knopf reiterated that the Oversight Board disagrees with the MEDC's position that it is not subject to the PRA and pointed to the City's open government ordinance which states that any private entity provided properties and funds by the City with a member of the City Council sitting on its governing body is subject to the Brown Act and Public Records Act.

C. Receive Update on Status of Payment for Oversight Board's Administrative Expenses, including Administrative Support and Legal Services.

Chair Mendizabal said that as of this date, Mr. Tom Williams has refused to pay for invoices submitted for Legal and Administrative services until more detail is provided. Chair Mendizabal added that it is an intrusion on the Board's right to have legal counsel and administrative support, and that invoices submitted are reviewed and approved by the Chair.

Mr. Tom Williams added that he is asking that more detail be outlined on the invoice, including what work was provided, as well as the hourly rate. Once that is received, he will consider paying the invoice.

Mr. Murdter added that it is the role of Oversight Board to approve the counsel's invoice and submit to the Successor Agency for payment.

Mr. Ogaz added that when reviewing invoices, staff always wants some details, and providing redacted copies with itemized listings is appropriate.

After additional discussion, **Mr. Murdter moved to continue this item to Closed Session. The motion was seconded by Mr. Wong, and passed by the following vote: Ayes: Gomez, Grilli, Knopf, Mendizabal, Murdter & Wong Noes: Karlen.**

D. Establish a Regular Monthly Meeting Date.

The Oversight Board discussed whether a regular meeting date would be helpful. Ms. Gore stated that under the Brown Act, a regular meeting date should be scheduled.

After additional discussion, **Ms. Grilli moved to resolve that a regular meeting be held quarterly on the fourth Monday of March, June, September, and December, at 4 p.m. The motion was seconded by Mr. Gomez, and passed unanimously.**

AGENDA ITEMS FOR NEXT MEETING

The Oversight Board discussed including the following items on the next agenda: Closed session, Review of the ROPS, Update on Status of PRA, and Update on Payment of Administrative and Legal Expenses

SET NEXT MEETING DATE

The next meeting date was set for Monday, February 25, 2013

CLOSED SESSION – ANTICIPATED LITIGATION: CONFERENCE WITH LEGAL COUNSEL-POTENTIAL LITIGATION (Gov. Code section 54956.9 (c).)

Chair Mendizabal adjourned the meeting to closed session at 6:21 pm. The Board returned to open session at 7:00 pm. The Chair reported that in closed session, the Board provided counsel with direction on the Standstill Agreement as well as the payment of legal and administrative support services. The Chair also indicated that he would report out the same information at the beginning of the next Oversight Board meeting.

Moved by Mr. Knopf, and seconded by Mr. Gomez, that Ms. Gore serve as the temporary Board Clerk for the remainder of the meeting. Motion passed unanimously.

Moved by Mr. Gomez, and seconded by Ms. Grilli, to approve the resolution, as amended in closed session, to forward the Standstill Agreement presented in closed session to the MEDC, City of Milpitas, and Successor Agency (“Milpitas Entities”) for consideration, and to authorize the Chair to sign the Agreement if approved by the Milpitas Entities. The Resolution passed unanimously.

ADJOURNMENT

The meeting was adjourned at 7:03 pm.

*Meeting minutes drafted and submitted by
Barbara Crump, Board Secretary*

Approved on February 25, 2013:

Mike Mendizabel
Oversight Board Chair

Barbara Crump
Oversight Board Secretary

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: February 25, 2013

ITEM V.A: APPROVE THE SUCCESSOR AGENCY'S ADMINISTRATIVE BUDGET FOR THE PERIOD OF JULY 1 TO DECEMBER 31, 2013

RECOMMENDED ACTION(S):

Approve an Administrative Budget for July 1 to December 31, 2013, that does not exceed the Administrative Cost Allowance allowed under the Dissolution Law.

DISCUSSION:

The Dissolution Law requires that a Successor Agency prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget must include all of the following:

1. Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.
2. Proposed sources of payment for the costs identified in item one (1) above.
3. Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

In addition, the Successor Agency is required to provide the County Auditor-Controller with administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited into the Redevelopment Property Tax Trust Fund (RPTTF), for each six-month fiscal period covered by a Recognized Obligation Payment Schedule (ROPS).

The Dissolution Act provides for an "administrative cost allowance" to provide funds for successor agencies to wind down the affairs and administer the debt repayments of the former redevelopment agency. The "administrative cost allowance" is defined as "up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars (\$250,000), unless the oversight board reduces this amount, for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance shall exclude, and shall not apply to, any administrative costs that can be paid from bond proceeds or from sources other than property tax. Administrative cost allowances shall exclude any litigation expenses related to assets or obligations, settlements and judgments, and the costs of maintaining assets prior to disposition. Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs and shall not constitute administrative costs."

The Successor Agency staff has prepared the attached Administrative budget. According to the proposed budget, the Successor Agency's administrative cost allowance for July 1 to December 31, 2013, will be \$292,633. The administrative costs reflected on the proposed budget total \$226,528, leaving a difference of approximately \$66,105 available to be allocated to the two line items included for "reallocated administrative costs" for the County of Santa Clara and "reallocated legal costs." The amount stated in the administrative budget for each of these items is "TBD" (To Be Determined).

Based on recent billing history, staff recommends that \$55,000 be allocated to legal services for the Oversight Board, and \$11,105 be allocated to administrative costs for the Oversight Board. Staff is hopeful that the full budget for legal costs will not be required if the proposed standstill agreement is approved. However, the necessary costs will depend upon the level of activity required to review and/or draft other documents necessary to the Oversight Board's role in winding up the Redevelopment Agency.

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 APPROVING AN
ADMINISTRATIVE BUDGET FOR THE PERIOD OF JULY 1 TO DECEMBER 31,
2013**

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, the Dissolution law provides for the payment of the administrative costs of the Successor Agency to the Former Milpitas Redevelopment Agency ("Successor Agency"), subject to the approval of the Oversight Board of the Successor Agency ("Oversight Board"); and

WHEREAS, the Successor Agency prepared and submitted an administrative budget for the period of July 1 to December 31, 2013, in accordance with State law; and

WHEREAS, the administrative budget prepared by the Successor Agency was considered by the Oversight Board and was amended to include \$11,105 for reallocated administrative costs and \$55,000 for reallocated legal costs;

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board has considered the full record before it, which may include but is not limited to the staff report, testimony by staff and the public, and other materials and evidence provided to it.

BE IT FUTHER RESOLVED that the Oversight Board adopts the Administrative Budget, as amended, in substantially the same form as attached hereto.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump, Oversight Board Secretary

Oversight Board Chair

**Successor Agency Administrative Costs - Staff
January to June 2013**

Position	Job Duties related to Successor Agency	FY12-13 Salaries & Benefits	PCT	6 months Jan - June 2013
City Manager	Management of Agency Wind Down	329,934	20%	32,993
Executive Secretary	Provide office support to City Manger	129,165	5%	3,229
City Clerk	Prepare Successor Agency agenda and meeting minutes	179,880	5%	4,497
Deputy City Clerk	Assistance to City Clerk in performing her duties	132,436	3%	1,987
HR Director	Agency wind down - Management of layoffs	220,940	5%	5,524
HR Technician	Assistance to HR Director in performing her duties	105,065	2%	1,051
HR Senior Analyst	Assistance to HR Director in performing her duties	152,141	3%	2,282
Systems Administrator	Posting of Successor Agency & Oversight Board agenda online	159,738	1%	799
City Attorney	Legal Advice in wind down of Agency affairs	285,688	20%	28,569
Executive Secretary - legal	Assistance to City Attorney in performing his duties	129,165	15%	9,687
Finance Director	ROPS, oversight board, successor agency financial transactions wind down, dealing with DOF & SCO	236,452	20%	23,645
Budget Manager	Provide analytical support to Finance Director	162,859	10%	8,143
Accounting Technician	Perform banking and Investment functions	108,798	5%	2,720
Finance Manager	Assist in ROPS, oversight board, accounting, and dealing with DOF & SCO	192,338	20%	19,234
Accountant	Perform accounting functions	129,420	5%	3,235
Accountant	Perform accounting functions	129,420	20%	12,942
Fiscal Assistant	Provide clerical support to Fin Director & Manager	100,741	5%	2,519
Fiscal Assistant	Retrive and organize documents for audits	100,741	2%	1,007
Fiscal Assistant	Perform Accounts Payable functions	100,741	1%	504
Fiscal Assistant	Revenue collection	100,741	1%	504
Senior Fiscal Assistant	Revenue collection	108,788	1%	544
	Full time equivalent employees		2	<u>165,614</u>

**City of Milpitas Successor Agency
 FY 13-14 Administration Budget
 July to December 2013 (Six Months)**

<u>Payee</u>	<u>Description</u>	<u>Amount</u>
City of Milpitas	Successor Agency Adm Costs - staff	\$ 165,614
ABAG PLAN	Property Insurance (1)	43,796
Various vendors	Copier lease, printing, storage, office equip	5,500
Maze & Assoc.	Audit Costs (Intermin audit)	2,000
US Bank	Adm. Fee for debt services	4,000
ACS	Arbitrage Calculation	2,000
Willdan Financial	Bond Continued disclosure (due in 2nd half of FY)	-
PG&E	Utility Costs (3)	2,876
ABAG POWER	Utility Costs (3)	338
Ctiy of Milpitas	Utility Costs (3)	405
County of Santa Clara	Reallocated administrative costs	TBD
Miller & Owen	Reallocated legal costs	TBD
	Total	<u><u>\$ 226,528</u></u>

Limited to 3% administrative cap of the Jan - Jun 2013 ROPS amount 292,633

- (1) Successor Agency's share of the property insurance is 44.69% of the total property insurance premium
 Estimated FY 13-14 premium: \$98,000 x 44.69% = \$43,796
- (2) Various vendors include office supplies, copier lease, storage, printing, postage, janitorial service
 and supplies, building maintenance, and legal subscription
- (3) In FY 13-14, 2 FTE staff is allocated to Successor Agency. There are approximately 75 workers in the
 City Hall. As a result, approximately 2.7% of the utility costs is allocated to the Successor Agency

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: February 25, 2013

ITEM V.B: CONSIDER APPROVING THE SUCCESSOR AGENCY'S RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JULY 1 TO DECEMBER 31, 2013

RECOMMENDED ACTION(S):

Approve a Recognized Obligation Payment Schedule for the period of July 1 to December 31, 2013, as required under the "Dissolution Law" (ABx1 26, as revised by Court order and AB 1484), and direct legal counsel to take all actions required under law, including but not limited to, forwarding the approved ROPS to the County Auditor-Controller, California Department of Finance, and the California State Controller's Office.

DISCUSSION:

The Dissolution Law requires that an oversight board approve the Recognized Obligation Payment Schedule (ROPS) prepared by the successor agency before it can be submitted to the County Auditor-Controller, California Department of Finance (DOF) and the State Controller's Office. A ROPS lists all of the enforceable obligations of the former Redevelopment Agency and, commencing on May 1, 2012, only those payments listed on the ROPS may be made by the Successor Agency.

After May 1, 2012, the Successor Agency only receives a distribution of property tax funding (deposited into a Redevelopment Property Tax Trust Fund (RPTTF)) equal to the amount needed to make the payments listed on the ROPS.

With this ROPS, DOF has adopted a new naming convention to replace the previous I, II, and III sequence. The new name beginning with this period is 13-14A (for fiscal year 2013-14, and A representing the first half of the fiscal year). The ROPS 13-14A must be submitted to DOF by March 1, 2013.

Beginning this ROPS period, DOF has also provided each Successor Agency with a template ROPS for completion. In providing the 13-14A ROPS template, DOF has stated:

"If a particular item was previously denied by Finance, it will still remain on the ROPS template but will be specifically identified as denied. Absent a reversal through the Meet and Confer process, or a favorable outcome through litigation, Agencies should not input expenses for these items."

DOF's instructions for completing the ROPS 13-14A template further specify that obligations denied by DOF have been color coded in a pale red, and the cells of the template have been locked to prevent the Successor Agency from inputting expenses for these items.

The attached ROPS 13-14A has been prepared by the Successor Agency staff for the Oversight Board's consideration.

The contracts included on the ROPS 13-14A are consistent with the template provided by DOF.

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 APPROVING A
RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JULY 1
TO DECEMBER 31, 2013**

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, the Dissolution Law requires the Successor Agency to a former redevelopment agency to submit to the Oversight Board for its approval, no later than March 1, 2013, a Recognized Obligation Payment Schedule covering the period July 1, 2013, to December 31, 2013 (ROPS 13-14A); and

WHEREAS, in accordance with AB 1484, the Successor Agency to the former Milpitas Redevelopment Agency ("Successor Agency") prepared and submitted ROPS 13-14A to the County Administrative Officer, the County Auditor-Controller, and the Department of Finance at the same time the Successor Agency submitted the ROPS to the Oversight Board of the Successor Agency ("Oversight Board") for its consideration and approval; and

WHEREAS, the ROPS 13-14A has been considered by the Oversight Board at a public meeting.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board has considered the full record before it, which may include but is not limited to the staff report, testimony by staff and the public, and other materials and evidence provided to it.

BE IT FUTHER RESOLVED that the Oversight Board approves the ROPS 13-14A in substantially the same form as attached hereto.

BE IT FUTHER RESOLVED that the Oversight Board directs legal counsel to forward the approved ROPS to the Santa Clara County Auditor-Controller, the California Department of Finance, and the California State Controller's Office for certification and approval.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump, Oversight Board Secretary

Oversight Board Chair

Successor Agency

ID: **330**
County: **Santa Clara**
Successor Agency: **Milpitas**

Primary Contact

Honorific (Ms, Mr, Mrs)	
First Name	Emma
Last Name	Karlen
Title	Director of Financial Services
Address	455 E. Calaveras Blvd
City	Milpitas
State	CA
Zip	95035
Phone Number	408-586-3145
Email Address	ekarlen@ci.milpitas.ca.gov

Secondary Contact

Honorific (Ms, Mr, Mrs)	
First Name	Jane Corpus
Last Name	Takahashi
Title	Finance Manager
Phone Number	408-586-3125
Email Address	jcorpus@ci.milpitas.ca.gov

SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE

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

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

Outstanding Debt or Obligation	Total
Total Outstanding Debt or Obligation	\$321,992,077

Current Period Outstanding Debt or Obligation	Six-Month Total
A Available Revenues Other Than Anticipated RPTTF Funding	\$0
B Enforceable Obligations Funded with RPTTF	\$9,754,429
C Administrative Allowance Funded with RPTTF	\$292,633
D Total RPTTF Funded (B + C = D)	\$10,047,062
E Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i>	\$10,047,062
F Enter Total Six-Month Anticipated RPTTF Funding	\$16,633,224
G Variance (F - D = G) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	\$6,586,162

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 (<i>lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed</i>)	\$10,344,363
I Enter Actual Obligations Paid with RPTTF	\$10,039,104
J Enter Actual Administrative Expenses Paid with RPTTF	\$313,777
K Adjustment to Redevelopment Obligation Retirement Fund (H - (I + J) = K)	\$0
L Adjustment to RPTTF (D - K = L)	\$10,047,062

Certification of Oversight Board Chairman:

Emma C. Karlen

Dir. Of Financial Services

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

Name

Title

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

Obligation Payment Schedule for the above named agency.

/s/ Emma C. Karlen

2/15/2013

Signature

Date

MILPITAS (SANTA CLARA)
Pursuant to Health and Safety Code section 34186 (a)
PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS II)
July 1, 2012 through December 31, 2012

Item #	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	LMIHF		Bond Proceeds		Reserve Balance		Admin Allowance		RPTTF		Other	
					Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
					\$0	\$0	\$0	\$0	\$0	\$0	\$392,571	\$313,777	\$10,043,071	\$10,039,104	\$0	\$0
Ln1/Fm A	2003 Tax Allocation Bonds	US Bank	Bonds issued to fund redevelopment projects	Project Area No. 1									9,639,104	9,639,104		
Ln2/Fm A	Contract for consulting services	Arbitrage Compliance Specialists	Calculation of bond arbitrage	Project Area No. 1							1,500	2,900				
Ln3/Fm A	Contract for consulting services	US Bank	Adm fees for debt services	Project Area No. 1							3,950	3,150			0	
Ln4/Fm A	Contract for consulting services	MuniServices LLC	Property Tax audit fee	Project Area No. 1							25,000	0			0	
Ln5/Fm A	Contract for services	Prints Charles Repographics	Graphic Reproduction Services #8198	Project Area No. 1									304		0	
Ln6/Fm A	Contract for consulting services	Advanced Design Consultants	Design of Sports Center Lighting #8198	Project Area No. 1									2,550		0	
Ln7/Fm A	Project Administration Cost	City of Milpitas Staff	Department of Energy Grant #8198	Project Area No. 1									1,113		0	
Ln8/Fm A	Financing Agreement	SunPower Corporation	Assistance per CRL 33444.6	Project Area No. 1									400,000		400,000	
Ln1/Fm C	Administration Costs	City of Milpitas	Successor Agency staff adm Costs - wind down of RDA	Project Area No. 1							259,893	222,935				
Ln2/Fm C	Administration Costs	ABAG PLAN	Property Insurance	Project Area No. 1							36,646	41,540				
Ln3/Fm C	Administration Costs	Various vendors	Copier lease, printing, storage, office equipment	Project Area No. 1							8,750	5,266				
Ln4/Fm C	Administration Costs	PG&E	Utility costs - electricity	Project Area No. 1							4,775	4,089				
Ln5/Fm C	Administration Costs	ABAG POWER	Utility costs - gas	Project Area No. 1							625	256				
Ln6/Fm C	Administration Costs	City of Milpitas	Utility costs - water	Project Area No. 1							1,000	1,353				
Ln7/Fm C	Reimbursement Agreement	City of Milpitas	Maze & Associates successor agency financial audit fees	Project Area No. 1							7,350	4,550				
Ln8/Fm C	Contract for consulting services	Murphy & Associates	Redevelopment legal services	Project Area No. 1							9,000	375				
New	Contract administration services	County of Santa Clara	Oversight Board administration services	Project Area No. 1							4,883	964				
New	Contract for consulting services	Miller & Owen	Oversight Board legal services	Project Area No. 1							29,199	26,400				

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: February 25, 2013

ITEM V.C: CONSIDER FUTURE AGENDA ITEM TO RATIFY THE DISPOSITION AND CONVEYANCE OF SPECIFIED GOVERNMENTAL USE BUILDINGS AND PUBLIC IMPROVEMENTS PREVIOUSLY CONVEYED TO THE CITY OF MILPITAS AND DIRECT AND APPROVE THE TRANSFER OF SPECIFIED GOVERNMENTAL USE BUILDINGS AND PUBLIC IMPROVEMENTS TO THE CITY OF MILPITAS FOR CONTINUED GOVERNMENTAL USE, OPERATION, AND MAINTENANCE

RECOMMENDED ACTION(S):

Consider and discuss a future agenda item to ratify the disposition and conveyance of certain governmental use buildings and public improvements (specified in Exhibit A to the attached draft resolutions) previously conveyed to the City of Milpitas and direct and approve the transfer of certain governmental use buildings and public improvements (specified in Exhibit B to the attached draft resolutions) to the City of Milpitas for continued governmental use, operation, and maintenance.

DISCUSSION:

The Dissolution Law provides that an Oversight Board shall direct a Successor Agency to dispose of all assets and properties of the former Redevelopment Agency ("RDA"). In directing this disposition, the Oversight Board may direct the Successor Agency to "transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset." (Health & Safety Code, § 34181(a).)

Attached is a staff report and two draft resolutions prepared by the Successor Agency, for your review.

While the Oversight Board cannot take action on this item at this time, we do recommend that the Oversight Board discuss including this item on a future agenda and the steps needed to do so.

FISCAL/RESOURCE IMPACT:

None.

ATTACHMENT(S):

Resolution

Prepared by: Jennifer Gore
Oversight Board Legal Counsel



CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3050, FAX: 408-586-3056, www.ci.milpitas.ca.gov

Date: February 20, 2013

To: Oversight Board
From: Michael Ogaz, Milpitas City Attorney
Subject: Transfer of City Use properties and projects

Recommended Action

Direct Successor Agency staff to prepare resolutions approving disposition to the City of Milpitas of all City public works and properties funded by the former Redevelopment Agency and used for municipal governmental purposes. Draft copies of proposed resolutions accompany this report.

Background

The former Milpitas Redevelopment Agency funded construction of many public facilities used and operated by the City of Milpitas. Some of this construction occurred on City-owned property, with funding from the Redevelopment Agency; for example, the Redevelopment Agency funded a street resurfacing project in 2009. For other public facilities, such as the Milpitas Sports Center, the Redevelopment Agency purchased property and contracted for construction of the improvements, with the City assuming ownership and financial responsibility for operations and maintenance after completion. In total there exist three categories of properties or projects constructed or used for governmental purposes. Health and Safety Code Section §34181 provides that ownership of assets and properties of the former RDA used for governmental purposes may be transferred to the appropriate public jurisdiction upon approval by the Oversight Board. The properties and projects listed are all used for governmental purposes and should be transferred back to the City. As noted, they fall into three categories. The **first** are real property parcels owned by the City but which are listed on the DDR as property which, if not used for governmental purposes, should be controlled and disposed of by the Successor Agency. The **second** are real property parcels currently owned by the Successor Agency and subject to disposition as authorized by the Oversight Board. The **third** category is for public works projects funded with RDA money but constituting improvements for governmental purposes.

Category One. In March 2011, the Redevelopment Agency conveyed real property to the City. As summarized below, each of these sites was, and is, a City facility used for governmental purposes for which the Redevelopment Agency provided funding in accordance with the Community Redevelopment Law (the "CRL"):

APN	Location	Description
022-02-012	1265 N. Milpitas Blvd.	Public Works HQ
022-02-047	1271-1275 N. Milpitas Blvd.	Police Department HQ, Public Works Yard
086-02-061	775 Barber Lane	Fire Station #4
086-10-025	540 S. Abel Street	Cracolice Building used by City Recreation Department
029-17-004 to 029-17-013, 029-17-015	1325 E. Calaveras Blvd.	Milpitas Sports Center
028-24-025	86 N. Main Street	Open Space used for library construction
028-34-001 to 028-34-094	230 N. Main Street	Vacant property slated for public park per Park Master Plan

In January 2012, the Redevelopment Agency also conveyed to the City a City parking garage at 93 N. Main Street (APN 022-08-003) that serves primarily the County Health Center but is generally available for public parking use.

The former Redevelopment Agency had funded improvements at all of these sites, as well as improvements at other sites that the Agency had never owned. In March 2011, the Agency and City made bookkeeping journal entries reflecting the City's ultimate ownership of some, but not all, of these improvements.

The State Controller and the County of Santa Clara have directed the Successor Agency to permit the Oversight Board to review disposition of these properties to the City. Accordingly, the Successor Agency and City now ask the Oversight Board to ratify the conveyances from the Redevelopment Agency to the City that have already occurred.

Category Two. In addition to the ratification disposition requested above, the City seeks authorization to convey real properties owned and controlled by the Successor Agency to the City as properties used for governmental purposes.

When the former Redevelopment Agency dissolved, it held title to four parcels that are City facilities:

APN	Location	Description
028-24-044	160 N. Main Street	Library and Garage
086-11-008	777 S. Main Street	Fire Station #1
026-13-033	45 Midwick Drive	Fire Station #3
028-12-023	40 N. Milpitas Blvd.	City Hall, Senior Center

Category Three. Approve conveyance by the Successor Agency to the City of all remaining public improvements that are used for governmental purposes. These are public works projects, such as street paving and other maintenance of public facilities which are not real property but enhancements to City owned/controlled properties. The City seeks confirmation that these projects were constructed and used for a governmental purpose and Oversight Board direction to the Successor Agency to transfer these assets to the City. See the accompanying resolution for a list of these public works improvements and projects.

Analysis

The CRL permitted redevelopment agencies such as the former Milpitas Redevelopment Agency to pay the cost of acquiring real property for public works, as well as the cost of developing public works and urban infrastructure, to implement the agency's redevelopment plans (Health & Safety Code §33445.) The CRL did not, however, allow redevelopment agencies to own and operate these public works for the long term. Instead, the CRL contemplated either that redevelopment agencies simply would provide funding to other public agencies for such infrastructure development, or that they would acquire property and develop public improvements and then transfer ownership of the completed public facilities to the agencies for which the redevelopment agency had developed the public facilities. Disposition of these City public facilities, including real property and improvements, to the City thus completes the process required by the CRL for redevelopment-funded public works. This is consistent with the exception allowing transfer to the relevant public agency of assets used for "governmental purposes", found in Health and Safety Code §34181, instead of disposing of those assets.

Fiscal Impact

None. The City, not the Successor Agency, already bears all costs of operating and maintaining these facilities.

If the Oversight Board denies the City request to transfer these properties and project assets to the City, thus requiring the Successor Agency to retain any of these properties or assets, then operation and maintenance costs would fall to the Successor Agency, to be funded through the Redevelopment Property Tax Trust Fund. If the transfers to the City are approved, then operation and maintenance costs will be born by the City.

Recommendation

Adopt two resolutions ratifying the March 2011 and January 2012 dispositions of public works from the Redevelopment Agency to the City, and authorizing the Successor Agency to complete this process by conveying to the City all remaining public works and properties funded by the former Redevelopment Agency.

RESOLUTION 2013-__

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS RATIFYING THE DISPOSITION AND CONVEYANCE OF SPECIFIED GOVERNMENTAL USE BUILDINGS AND PUBLIC IMPROVEMENTS PREVIOUSLY CONVEYED TO THE CITY OF MILPITAS AND DIRECTING AND APPROVING THE TRANSFER OF SPECIFIED GOVERNMENTAL USE BUILDINGS AND PUBLIC IMPROVEMENTS TO THE CITY OF MILPITAS FOR CONTINUED GOVERNMENTAL USE, OPERATION, AND MAINTENANCE

WHEREAS, the California Legislature enacted ABx1 26 (“ABx1 26”), effective June 28, 2011, to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), including the Redevelopment Agency of the City of Milpitas (the “Former Redevelopment Agency”); and

WHEREAS, pursuant to Health and Safety Code Section 34173, the City Council of the City declared that the City would act as successor agency (the “Successor Agency”) to the Former Redevelopment Agency effective February 1, 2012, the date the Former Redevelopment Agency was dissolved pursuant to ABx1 26; and

WHEREAS, pursuant to AB 1484 (together with ABx1 26, the “Redevelopment Dissolution Statutes”), enacted June 27, 2012, to amend various provisions of ABx1 26, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, the Redevelopment Dissolution Statutes provide 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, prior to its dissolution the Former Redevelopment Agency exercised that authority granted to it under Health and Safety Code Section 33445 to pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned; and

WHEREAS, the Former Redevelopment Agency transferred the properties the publicly owned, operated, and maintained buildings and public improvements listed in the attached Exhibit A, incorporated herein by this reference, to the City on March 7, 2011, which shall herein after be collectively referred to as the “Transferred Public Improvements”; and

WHEREAS, pursuant to Health and Safety Code Section 34175(b), the Former Redevelopment Agency owned, operated, and maintained buildings and public improvements listed in the attached Exhibit B, incorporated herein by this reference, which shall herein after be collectively referred to as the “Retained Public Improvements” were retained by the Successor Agency on February 1, 2012 when the Former Redevelopment Agency as dissolved; and

WHEREAS, Health and Safety Code Section 34191.3 and Health and Safety Code Section 34181(a) authorize the Oversight Board to direct and approve disposition by the

Successor Agency to the appropriate public jurisdiction of Former Redevelopment Agency governmental purpose properties constructed and used for, among others, roads, school buildings, parks and open space, police and fire stations, libraries, and local agency administrative buildings; and

WHEREAS, Health and Safety Code Section 34177(e) further authorizes the Oversight Board to direct the transfer of ownership of assets and properties used for governmental purposes pursuant to Health and Safety Code Section 34181(a) and directs that that such disposal occur expeditiously and in a manner aimed at maximizing value; and

WHEREAS, the buildings and public improvements that are the subject of this Resolution were constructed and used for a governmental purpose, such as [**describe public improvements**] (collectively, the “Governmental Use Purposes” are generally located in the City of Milpitas within its Redevelopment Project Areas; and

WHEREAS, upon dissolution of the Former Redevelopment Agency, on February 1, 2012, the ownership of the Retained Public Improvements transferred to the Successor Agency pursuant to Health and Safety Code Section 34175(b), and the Successor Agency is now responsible for the disposition of the Retained Public Improvements in accordance with the procedures and requirements of the Redevelopment Dissolution Statutes; and

WHEREAS, the City, as the public jurisdiction generally responsible for the ownership, operation and maintenance of municipal public facilities in the City of Milpitas, is the appropriate public jurisdiction for the ultimate disposition of the Transferred Public Improvements and the Retained Public Improvements; and

WHEREAS, ratification of the disposition of the Transferred Public Improvements to the City for continued use, operation and maintenance for Governmental Use Purposes is consistent with the City’s General Plan, the Downtown Specific Plan, the Redevelopment Plans for the Project Areas, and other applicable City codes and policies in that these local laws and plans call for continued public use and maintenance of these facilities and public improvements;

WHEREAS, the approval and disposition of the Retained Public Improvements to the City for continued use, operation and maintenance for Governmental Use Purposes is consistent with the City’s General Plan, the Downtown Specific Plan, the Redevelopment Plan for the Project Area, and other applicable City codes and policies in that these local laws and plans call for continued public use and maintenance of these facilities and public improvements; and

WHEREAS, to ratify the disposition of the Transferred Public Improvements by the Former Redevelopment Agency and to facilitate the disposition of the Retained Public Improvements by the Successor Agency to the City; for continued use, operation and maintenance for Governmental Use Purposes, the Successor Agency staff has prepared a Public Property Disposition, Use, Operation and Maintenance Agreement (the “Agreement”), a copy of which is on file with the Oversight Board Secretary; and

WHEREAS, public notice of the proposed actions set forth in this Resolution was published in the Successor Agency's newspaper of general circulation on February ___, 2013 in compliance with the requirement of Health and Safety Code Section 34181(f); and

WHEREAS, the ratification of the disposition of the Transferred Public Improvement and disposition of the Retained Public Improvements, and their continued use, operation, and maintenance by the City for Governmental Use Purposes pursuant to the Agreement is exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines ("CEQA") pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility); and

WHEREAS, the accompanying staff report provides supporting information upon which the action set forth in this Resolution is 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 the City Manager is hereby authorized and directed to file a Notice of Exemption with respect to the Agreement in accordance with the applicable provisions of CEQA.

BE IT FURTHER RESOLVED that pursuant to Health and Safety Code Sections 34191.3, 34177(e), and 34181(a), the Oversight Board hereby ratifies the disposition of the Transferred Public Improvements to the City in consideration for the City's continued use, operation, and maintenance of the Transferred Public Improvements for Governmental Use Purposes, as provided in the Agreement.

BE IT FURTHER RESOLVED that pursuant to Health and Safety Code Sections 34191.3, 34177(e) and 34181(a), the Oversight Board hereby directs the Successor Agency to dispose of the Retained Public Improvements to the City in consideration for the City's continued use, operation, and maintenance of the Retained Public Improvements for Governmental Use Purposes, as provided in the Agreement.

BE IT FURTHER RESOLVED that, to implement the above direction, the Oversight Board hereby approves the Agreement and authorizes the Successor Agency Executive Director or the Executive Director's designee to execute the Agreement on behalf of the Successor Agency, substantially in the form on file with the Oversight Board Secretary, and to take any action and execute any documents, in consultation with the Milpitas City Attorney, acting in the capacity of counsel to the Successor Agency, as may be necessary to: (1) implement the ratification of the disposition of the Transferred Public Improvements pursuant to the terms approved in this Resolution; and (2) to implement the disposition of the Retained Public Improvements pursuant to the terms of this Resolution.

BE IT FURTHER RESOLVED that the Successor Agency is hereby directed to notify the California Department of Finance of the actions set forth in this Resolution in accordance with Health and Safety Code Section 34181(f).

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) and Section 34181(f).

The above and foregoing Resolution was duly and regularly passed and adopted at a meeting by the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Milpitas at a regular meeting thereof held on _____, 2013, by the following vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

Chairperson

ATTEST:

Oversight Board Secretary

EXHIBIT A
Transferred Public Improvements

Asset Description	Project #	Book Value
Bldg & Improv-Community Center	n/a	\$ 825,590
Bldg & Improv-City Library	n/a	950,195
Bldg & Improv-Police & Public Works	n/a	4,441,845
Bldg & Improv-Corporate Yard	n/a	1,082,335
Bldg & Improv-Milpitas Sport Center	n/a	2,506,828
Bldg & Improv-Tower & Training Facility	n/a	328,063
Bldg & Improv-Fire Station #4	n/a	148,164
Bldg & Improv-Civic Center	CP8026	29,696,480
Bldg & Improv-Milpitas Sports Center	CP8053	4,416,813
Bldg & Improv-Police Dept-Public Works	CP8066	698,196
Bldg & Improv-ADA Fire Stations	CP8067	14,350
Bldg & Improv-Haz Material Remediation-City of Milpitas	CP8074	295,963
Bldg & Improv-Fire Station Replacement	CP8089	3,806,255
Bldg & Improv-Telecommunications Infrastructure	CP8093	3,203,374
Bldg & Improv-Storm Water Pump Improvement	CP8106	100,843
Bldg & Improv-Senior Center Renovation	CP8134	640,143
Bldg & Improv-Gateway Improv Tasman Drive	CP8146	329,543
Bldg & Improv-MSA Master Plan Imprv Phase 1	CP8149	1,146,160
Bldg & Improv-Refinish City Garage Floor	CP8150	23,610
Bldg & Improv-Interim Senior Center Project	CP8151	580,150
Bldg & Improv-Sports Center Large Gym Improv	CP8160	841,874
Bldg & Improv-Sports Center Underwater Pool	CP8163	90,418
Bldg & Improv-Public Works Security	CP8173	92,390
Bldg & Improv-Interim Senior Ctr Re-roofing	CP8178	79,853
Bldg & Improv-Sports Center Swimming Pool	CP8180	220,363
Bldg & Improv-Corporation Yard Canopies	CP8183	610,213
Bldg & Improv-Library Arts	CP8189	165,639
Land Improv-New Corporation Yard	CP8010	91,151
Land Improv-Milpitas Sport Center-East Parking Lot	CP8017/8042	469,465
Land Improv-Milpitas Sport Center-Pool Deck Drains	CP8054/8078	17,203
Land Improv-Civic Ctr Pond & Filtration System	CP8071	8,336
Land Improv-Public Works/Corp Yard Parking Lot	CP8083	243,689
Land Improv-Community Center Tot Lot	CP8088	43,188
Land Improv-Softball Scoreboards-Gill Pk	CP8097	33
Land Improv-Corp Yard Non-point Modifications	CP8099	220,122
Land Improv-MSA Sport Field Modifications	CP8101	10,162
Land Improv-Senior Center Entrance Modifications	CP8104	86,777
Land Improv-Civic Center Walkway Repair	CP8119	23,104
Land Improv-MSA Phases 11 & 12	CP8128	1,434
Land Improv-Range Improvements	CP8136	63,929
Land Improv-Gateway Identification	CP8137	117,421
Land Improv-City Gateway Identification(New)	CP8137B	18,245
Land Improv-City Hall Pond Improvements	CP8141	1,103,092
Land Improv-City Hall Parking/Circulation	CP8143	625,944
Mach & Equip-Emergency Operation Center Equip	CP8036	249,907
Mach & Equip-New Finance System	CP8107	2,631,679
Mach & Equip-Network Hardware & Software	CP8108E1	22,370
Mach & Equip-Desktop Technology	CP8109	2,229,224
Mach & Equip-New Permits System	CP8110	58,112
Mach & Equip-Computer Aided Draft	CP8112	2,537,250
Mach & Equip-Police Records Management	CP8113E	10,930
Mach & Equip-Police & Fire CAD System	CP8115E	138
Mach & Equip-Information Management System	CP8131	660,920
Mach & Equip-Berryessa Pump Station Improvements	CP8138	1,198,612
Mach & Equip-Oakcreek Pump Station	CP8140	229,594
Mach & Equip-Evidence Freezer	CP8159	90,554
CIP-Calaveras/Abel Dual Left Turn Lanes	CP8155	129,060
CIP-Street Resurfacing Project 2009	CP8194	2,233,972
Total		<u>\$ 72,761,271</u>

EXHIBIT B
Retained Public Improvements

Asset Description	Project #	Book Value
CIP-Community Center Renovation	CP8102	\$ 445,736
CIP-Radio Replacement Plan	CP8125	1,075,073
CIP-Misc City Bldg Improvements	CP8135	953,163
CIP-Midtown Improvements	CP8154	2,385,545
CIP-Midtown Parking Garage	CP8161	12,095,507
CIP-Library Design	CP8162	36,950,597
CIP-Main Street Improvement	CP8165	7,283,814
CIP-N. Main Street EIR Mitigations	CP8169	623,650
CIP-Range Lead Containment System	CP8174	159,533
CIP-Senior Center	CP8176	10,644,675
CIP-City Building Improvement	CP8182	390,962
CIP-Storm Pump Station Improvement	CP8188	220,564
CIP-Carlo Street Ramp Project	CP8195	602,812
CIP-Soundwall Renovation	CP8196	212,014
CIP-Civic Center Site Improvement	CP8197	440,095
CIP-Department of Energy Grant Program	CP8198	806,460
CIP-Street Light Pole Improvement	CP8199	18,491
CIP-City Hall AV Equipment	CP9001	6,786
CIP-KP Infrastructure	CP-KB Dev	538,003
CIP-KP Infrastructure	CP-KB Dev	716
CIP-KP Infrastructure	CP-KB Dev	2,679,063
Total		\$ 78,533,256

RESOLUTION 2013-__

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS RATIFYING THE DISPOSITION AND CONVEYANCE OF SPECIFIED GOVERNMENTAL USE PROPERTIES PREVIOUSLY CONVEYED TO THE CITY OF MILPITAS AND DIRECTING AND APPROVING THE TRANSFER OF SPECIFIED GOVERNMENTAL USE PROPERTIES TO THE CITY OF MILPITAS FOR CONTINUED GOVERNMENTAL USE, OPERATION, AND MAINTENANCE

WHEREAS, the California Legislature enacted ABx1 26 (“ABx1 26”), effective June 28, 2011, to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), including the Redevelopment Agency of the City of Milpitas (the “Former Redevelopment Agency”); and

WHEREAS, pursuant to Health and Safety Code Section 34173, the City Council of the City declared that the City would act as successor agency (the “Successor Agency”) to the Former Redevelopment Agency effective February 1, 2012, the date the Former Redevelopment Agency was dissolved pursuant to ABx1 26; and

WHEREAS, pursuant to AB 1484 (together with ABx1 26, the “Redevelopment Dissolution Statutes”), enacted June 27, 2012, to amend various provisions of ABx1 26, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, the Redevelopment Dissolution Statutes provide 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, the Former Redevelopment Agency transferred the properties listed below to the City on March 7, 2011, which shall herein after be collectively referred to as the “Transferred Governmental Use Parcels”:

1. Property located in the City of Milpitas identified as Assessor’s Parcel No. 022-02-047, a publicly owned, operated, and maintained area dedicated for use as a police station (the “Police Station Parcel”);
2. Property located in the City of Milpitas identified as Assessor’s Parcel No. 086-02-061, a publicly owned, operated, and maintained area dedicated for use as a fire station (the “Fire Station #4 Parcel”);
3. Property located in the City of Milpitas identified as Assessor’s Parcel No. 022-08-003, a publicly owned, operated, and maintained area dedicated for use as a public parking garage (the “Health Center Parking Garage Parcel”);
4. Property located in the City of Milpitas identified as Assessor’s Parcel Nos. 029-17-004 through Parcel No. 029-17-013 and Parcel No. 029-17-015, a publicly

owned, operated, and maintained area dedicated for use as a sports and recreational complex (collectively, the “Sports Center Complex Parcels”);

5. Property located in the City of Milpitas identified as Assessor’s Parcel No. 086-10-025, a publicly owned, operated, and maintained area dedicated for use as an educational facility (the “Charter School Parcel”);
6. Property located in the City of Milpitas identified as Assessor’s Parcel No. 022-02-012, a publicly owned, operated, and maintained area dedicated for use by the City’s Department of Public Works (the “Public Works Parcel”);
7. Property located in the City of Milpitas identified as Assessor’s Parcel Nos. 028-34-001 through Assessor’s Parcel No. 028-34-094, a publicly owned, operated, and maintained area dedicated for use as open space (the “Open Space Parcel”);
8. Property located in the City of Milpitas identified as Assessor’s Parcel No. 028-24-025, a publicly owned, operated, and maintained area dedicated for use as a public library and parking garage (the “Library Parcel”); and

WHEREAS, pursuant to Health and Safety Code Section 34175(b), the Former Redevelopment Agency properties listed below, which shall herein after be collectively referred to as the “Retained Governmental Use Parcels,” were retained by the Successor Agency on February 1, 2012:

1. Property located in the City of Milpitas identified as Assessor’s Parcel No. 028-24-044, a publicly owned, operated, and maintained area dedicated for use as a public library and parking garage (the “Library Parcel”);
2. Property located in the City of Milpitas identified as Assessor’s Parcel No. 086-11-008, a publicly owned, operated, and maintained area dedicated for use as a fire station (the “Fire Station #1 Parcel”);
3. Property located in the City of Milpitas identified as Assessor’s Parcel No. 026-13-033, a publicly owned, operated, and maintained area dedicated for use as a fire station (the “Fire Station #3 Parcel”);
4. Property located in the City of Milpitas identified as Assessor’s Parcel No. 028-12-023, a publicly owned, operated, and maintained area dedicated for use as a city administrative building and community center (the “City Hall Community Center Parcel”); and

WHEREAS, Health and Safety Code Section 34191.3 and Health and Safety Code Section 34181(a) authorize the Oversight Board to direct and approve disposition by the Successor Agency to the appropriate public jurisdiction of Former Redevelopment Agency governmental purpose properties constructed and used for, among others, roads, school buildings, parks and open space, police and fire stations, libraries, and local agency administrative buildings; and

WHEREAS, Health and Safety Code Section 34177(e) further authorizes the Oversight Board to direct the transfer of ownership of assets and properties used for governmental purposes pursuant to Health and Safety Code Section 34181(a) and directs that that such disposal occur expeditiously and in a manner aimed at maximizing value; and

WHEREAS, the properties that are the subject of this Resolution were constructed and used for a governmental purpose, such as school buildings, parks and open space, police and fire stations, libraries, and administrative buildings (collectively, the “Governmental Use Purposes” are generally located in the City of Milpitas within its Redevelopment Project Areas; and

WHEREAS, upon dissolution of the Former Redevelopment Agency, on February 1, 2012, the ownership of the Retained Governmental Use Properties transferred to the Successor Agency pursuant to Health and Safety Code Section 34175(b), and the Successor Agency is now responsible for the disposition of the Property in accordance with the procedures and requirements of the Redevelopment Dissolution Statutes; and

WHEREAS, the City, as the public jurisdiction generally responsible for the ownership, operation and maintenance of municipal public facilities in the City of Milpitas, is the appropriate public jurisdiction for the ultimate disposition of the Transferred Governmental Use Parcels and the Retained Government Use Parcels; and

WHEREAS, ratification of the disposition of the Transferred Governmental Use Parcels to the City for continued use, operation and maintenance for Governmental Use Purposes is consistent with the City’s General Plan, the Downtown Specific Plan, the Redevelopment Plans for the Project Areas, and other applicable City codes and policies in that these local laws and plans call for continued public use and maintenance of these public administrative, recreational, educational, and health service facilities;

WHEREAS, the approval and disposition of the Retained Governmental Use Parcels to the City for continued use, operation and maintenance for Governmental Use Purposes is consistent with the City’s General Plan, the Downtown Specific Plan, the Redevelopment Plan for the Project Area, and other applicable City codes and policies in that these local laws and plans call for continued public use and maintenance of these public administrative, recreational, educational, and health service facilities; and

WHEREAS, to ratify the disposition of the Transferred Governmental Use Parcels by the Former Redevelopment Agency and to facilitate the disposition of the Retained Governmental Use Parcels by the Successor Agency to the City; for continued use, operation and maintenance for Governmental Use Purposes, the Successor Agency staff has prepared a Public Property Disposition, Use, Operation and Maintenance Agreement (the “Agreement”), a copy of which is on file with the Oversight Board Secretary; and

WHEREAS, public notice of the proposed actions set forth in this Resolution was published in the Successor Agency’s newspaper of general circulation on February __, 2013 in compliance with the requirement of Health and Safety Code Section 34181(f); and

WHEREAS, the ratification of the disposition of the Transferred Governmental Use Parcels and disposition of the Retained Governmental Use Parcels, and their continued use, operation, and maintenance by the City for Governmental Use Purposes pursuant to the Agreement is exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines (“CEQA”) pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility) and Section 15325(f) (as a transfer to preserve open space or lands for park purposes); and

WHEREAS, the accompanying staff report provides supporting information upon which the action set forth in this Resolution is 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 the City Manager is hereby authorized and directed to file a Notice of Exemption with respect to the Agreement in accordance with the applicable provisions of CEQA.

BE IT FURTHER RESOLVED that pursuant to Health and Safety Code Sections 34191.3, 34177(e), and 34181(a), the Oversight Board hereby ratifies the disposition of the Transferred Government Use Parcels to the City in consideration for the City’s continued use, operation, and maintenance of the Transferred Government Use Parcels for Governmental Use Purposes, as provided in the Agreement.

BE IT FURTHER RESOLVED that pursuant to Health and Safety Code Sections 34191.3, 34177(e) and 34181(a), the Oversight Board hereby directs the Successor Agency to dispose of the Retained Government Use Parcels to the City in consideration for the City’s continued use, operation, and maintenance of the Retained Government Use Parcels for Governmental Use Purposes, as provided in the Agreement.

BE IT FURTHER RESOLVED that, to implement the above direction, the Oversight Board hereby approves the Agreement and authorizes the Successor Agency Executive Director or the Executive Director’s designee to execute the Agreement on behalf of the Successor Agency, substantially in the form on file with the Oversight Board Secretary, and to take any action and execute any documents, in consultation with the Milpitas City Attorney, acting in the capacity of counsel to the Successor Agency, as may be necessary to: (1) implement the ratification of the disposition of the Transferred Governmental Use Parcels pursuant to the terms approved in this Resolution; and (2) to implement the disposition of the Retained Governmental Use Parcels pursuant to the terms of this Resolution.

BE IT FURTHER RESOLVED that the Successor Agency is hereby directed to notify the California Department of Finance of the actions set forth in this Resolution in accordance with Health and Safety Code Section 34181(f).

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) and Section 34181(f).

The above and foregoing Resolution was duly and regularly passed and adopted at a meeting by the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Milpitas at a regular meeting thereof held on _____, 2013, by the following vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

Chairperson

ATTEST:

Oversight Board Secretary

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: February 25, 2013

ITEM VI.A: CONSIDER PROPOSED STANDSTILL AGREEMENT BETWEEN OVERSIGHT BOARD, MILPITAS EDC, AND THE CITY OF MILPITAS

RECOMMENDED ACTION(S):

Approve the Attached Standstill Agreement between the Milpitas Economic Development Corporation ("MEDC"), the City of Milpitas, the Successor Agency, and the Oversight Board, and authorize the Board Chair to Execute the Agreement

DISCUSSION:

On January 14, 2013, the Oversight Board approved a draft Standstill Agreement and directed legal counsel to forward the draft Agreement to the Milpitas Economic Development Corporation ("MEDC"), the Milpitas Successor Agency ("Successor Agency"), and the City of Milpitas ("City") for consideration. On January 18, 2013, the MEDC rejected the proposed draft Agreement based on the inclusion of a provision directing the Successor Agency to pay the Oversight Board's administrative and legal costs.

On February 19, 2013, the MEDC, Successor Agency, and City considered and approved the revised draft Standstill Agreement without the provision directing payment of the Oversight Board's administrative and legal costs.

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 APPROVING THE PROPOSED STANDSTILL AGREEMENT AND AUTHORIZING THE OVERSIGHT BOARD CHAIR TO EXECUTE THE AGREEMENT

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, in 2011 within the "claw back" period of the Dissolution Law, the City of Milpitas (the "City") transferred approximately \$147,108,600 in redevelopment agency assets to the City and the Milpitas Economic Development Corporation (the "MEDC"); and

WHEREAS, on August 28, 2012, the State Controller's Office ordered the City and the MEDC to immediately reverse all unallowable transfers of assets received from the former redevelopment agency and return such assets to the Successor Agency for disposition by the Oversight Board; and

WHEREAS, to date, the City and the MEDC have not returned assets, as directed by the State Controller; and

WHEREAS, the Oversight Board desires to protect the interests of the taxing entities represented by the Oversight Board, including but not limited to schools, special districts, county services, educational programs, city services, and the water district; and

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board approves the draft Standstill Agreement considered at this meeting and attached hereto as Exhibit A.

BE IT FUTHER RESOLVED that the Oversight Board Chair is authorized to execute the Standstill Agreement.

BE IT FUTHER RESOLVED that the Oversight Board directs the Successor Agency to enter into said agreement to preserve the assets transferred from the former Redevelopment Agency to the MEDC and the City.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump, Oversight Board Secretary

Oversight Board Chair

**AGREEMENT BETWEEN THE CITY OF MILPITAS,
THE SUCCESSOR AGENCY TO THE CITY OF MILPITAS
AND THE MILPITAS ECONOMIC DEVELOPMENT CORPORATION
REGARDING PRESERVATION OF ASSETS PER OVERSIGHT BOARD REQUEST**

This Agreement is entered into this ___ day of ___, 2013, by and between the Milpitas Economic Development Corporation, a non-profit public benefit corporation (the “MEDC”), the City of Milpitas (the “City”), and the Successor Agency to the Milpitas Redevelopment Agency (the “Successor Agency”) at the request of its Oversight Board.

Recitals

A. The California Legislature in 2011 enacted ABx1 26 and in 2012 enacted AB 1484 (collectively AB x1 26 and AB 1484 are referred to herein as the “Dissolution Act”) which required the dissolution of all redevelopment agencies as of February 1, 2012, and set forth certain procedures governing the dissolution process.

B. The Dissolution Act required the establishment of successor agencies to the former redevelopment agencies, as well as the establishment of oversight boards to oversee and monitor certain actions of the successor agencies. Pursuant to the Dissolution Act, the City of Milpitas is the designated successor agency (“Successor Agency”) to the former Milpitas Redevelopment Agency (the “Agency”). The Successor Agency is a separate legal entity from the City.

C. The MEDC was created on March 7, 2011, by the City pursuant to the California Nonprofit Public Benefit Corporation Law.

D. The State Controller’s Asset Transfer Review found that the Agency transferred to the MEDC approximately Fifty Million, One hundred Sixty-one Thousand, Seven Hundred Sixty-three Dollars (\$50,161,763) in assets (“Working Capital”), as identified in Exhibit A, and incorporated herein by reference.

E. The State Controller’s Asset Transfer Review found that the Agency also transferred, by resolution, certain capital assets and properties held for resale (“Real Property”) to the City, valued at approximately Ninety-six, Nine Hundred Forty-six Thousand, Eight Hundred Thirty-seven Dollars (\$96,946,837), as identified in Exhibit A, and incorporated herein by reference.

F. The Successor Agency has been notified by the State Controller that it believes the asset transfers made by the Agency to MEDC and to the City were invalid and that the assets should be returned to the Successor Agency. Neither the MEDC, nor the City, have complied with the State Controller’s order to return these assets. The MEDC contends that it is a separate legal entity formed in accordance with state law, and that the transfer of assets to it was completed in accordance with law and that the notice sent by the State Controller is incorrect as a matter of law.

G. Pursuant to the Dissolution Act, the Oversight Board to Milpitas Successor Agency (the “Oversight Board”) has certain monitoring and oversight functions over the activities of the

Successor Agency. In response to the State Controller's Asset Transfer review, and in order to protect the fiduciary interests of the affected taxing entities and the holders of enforceable obligations, the Oversight Board requested the Successor Agency enter into this Agreement to preserve assets transferred by the Agency to MEDC and the City, in accordance with the terms and conditions set forth herein.

H. The Successor Agency, the MEDC, the City, and the Oversight Board desire to enter into this Agreement as an expression of their intent to work together cooperatively and in good faith.

Agreements

Section 1. Incorporation of Recitals. All of the recitals above are true and correct and are hereby incorporated into this Agreement.

Section 2. MEDC Obligations. By signing this Agreement, the MEDC attests that it has disclosed and provided copies of all existing MEDC contracts, including all contracts for services, as listed in Exhibit B. The MEDC will work cooperatively with the Oversight Board to provide the documents sought through its Public Records Act request.

Section 3. Tolling Provision. Any statute of limitations applicable to the transfer or expenditure of assets held by the MEDC shall be tolled and extended through the term of this Agreement to allow the Oversight Board, or the taxing entities it represents, to pursue all potential remedies upon the termination of this Agreement.

Section 4. Preservation of Assets.

(a) MEDC agrees that it shall: (i) not transfer, encumber, sell or convey any of the Real Property conveyed to it by the Agency or purchased with Working Capital, including personal property, fixtures and appurtenances; (ii) not transfer any Working Capital or interest on Working Capital to the City or any other party except as authorized under subsection (v) below; (iii) refrain from incurring any new financial obligations, including but not limited to new contracts or amendments to existing contracts for the transfer, encumbrance, or conveyance of Real Property, or contracts for services, including administrative services by City staff or other staff; (iv) refrain from exercising any option under any contract for the purchase of property; (v) satisfy only its outstanding obligations on contracts listed in Exhibit B, including the "Assignment and Assumption of Purchase and Sale Agreement" between the MEDC and the Agency, dated March 7, 2011, for the Mission West Properties ("Mission West Agreement").

(b) The City agrees that it shall: (i) not transfer, encumber, sell or convey any of the Real Property or Working Capital conveyed to it by the Agency, as listed on Exhibit A, including personal property, fixtures, and appurtenances; (ii) reimburse the Successor Agency, from its general fund, for any MEDC payments on the contracts listed in Exhibit B if a final, unappealed administrative or judicial determination holds that the transfer of assets to MEDC and/or the City was invalid or the obligation should not have been paid from MEDC funds, except for the "Assignment and Assumption of Purchase and Sale Agreement" between the MEDC and the Agency, dated March 7, 2011, for the Mission West Properties ("Mission West Agreement"). This provision shall survive the termination of this Agreement.

(c) In consideration of the commitments made by the City and MEDC, the Oversight Board shall not, during the term of this Agreement, intervene, delay, direct the Successor Agency to bring, or otherwise participate in, a court action seeking an injunction against further spending by the MEDC.

Section 5. Activity and Expenditure Reports. MEDC and the City agree to provide to the Oversight Board monthly written “Activity and Expenditure Reports” reflecting all of MEDC’s and the City’s activities and expenditures related to the transferred assets since the closing date of the previous report.

Section 6. Termination. The Parties agree that this agreement may be terminated by any Party upon 30 days written notice to the following persons:

NOTICE TO CITY OR SUCCESSOR AGENCY:

Tom Williams, City Manager, City of Milpitas
Executive Director, Successor Agency to the City of Milpitas RDA
455 E. Calaveras Blvd.
Milpitas, CA 95035

NOTICE TO THE OVERSIGHT BOARD:

Milpitas Oversight Board Clerk, c/o County of Santa Clara
Office of the County Executive
Attn: Administrative Services Manager
70 West Hedding Street, 11th Floor
San Jose, CA 95110

NOTICE TO MEDC

[name], President
Economic Development Corporation
455 E. Calaveras Blvd.
Milpitas, CA 95035

Section 7. Return of Assets. In the event there is a final, unappealed administrative determination or judgment by a court of competent jurisdiction that determines that the transfer of assets to MEDC and/or the City was invalid, and/or is subject to the “clawback” provisions of the Dissolution Act, the MEDC must return such assets to the Successor Agency in accord with such judgment or determination. This provision shall survive the termination of this Agreement.

Section 8. Term of Agreement. This Agreement shall take effect upon the date upon which the approval of the Agreement by the Oversight Board by resolution is deemed effective, pursuant to the provisions of Health and Safety Code section 34179(h), and shall terminate upon the earlier of either the return of all Real Property and Working Capital by the City and the MEDC to the Successor Agency, or upon such time as there is a final judgment by a court of competent jurisdiction, unless terminated earlier pursuant to Section 6, above.

Section 9. No Admission. Nothing in this Agreement shall be construed as an admission, acknowledgment, or waiver by any party or the Oversight Board in any proceeding. The Oversight Board does not admit that the transfer of assets to the MEDC or the City, or that any City or MEDC expenditure of those assets, including the contracts listed in Exhibit B, are valid, and reserves all rights to contest the foregoing in the future. The City and MEDC reserve all claims to the validity of those contracts. This provision shall survive the termination of this Agreement.

Section 10. Authorization. The parties acknowledge that each, upon approval of its respective governing board and the Department of Finance, is authorized to enter into this Agreement.

Section 11. Consent and Acknowledgment of Oversight Board. The Oversight Board, by Resolution No. _____ (the "Oversight Board Resolution") has reviewed and agrees with the terms of this Agreement, and has approved the execution of the Agreement by the Successor Agency. A true and correct copy of the Oversight Board Resolution is attached hereto as Exhibit C and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MILPITAS ECONOMIC DEVELOPMENT CORPORATION

By: _____
Name
Title:

CITY OF MILPITAS

By: _____
Name
Title:

SUCCESSOR AGENCY TO MILPITAS REDEVELOPMENT AGENCY

By: _____
Name:
Title:

As Requested and Approved by:

**OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO MILPITAS
REDEVELOPMENT AGENCY**

By: _____

Name:

Title: Oversight Board Chairperson

EXHIBIT A

List of Transferred Assets

**Schedule 1—
Unallowable Transfers to the City of Milpitas**

Capital Assets ¹	\$ 88,165,837
Properties Held for Resale ¹	<u>8,781,000</u>
Total Unallowable Transfers – City	<u>\$ 96,946,837</u>

¹ Detail Listing of Assets on Attachment 1.

**Schedule 2—
Unallowable Transfers to the Milpitas
Economic Development Corporation (MEDC)**

Current Assets	
Cash	\$ (2,417,334)
Investments Specific Funds	7,477,843
Market Gain Special Fund	18,184
Investments Pooled (LAIF)	37,600,000
Market Gain	995,789
Advance to Other Funds	6,389,612
Deferred Revenue	(310,451)
Tax Increment	<u>12,294,281</u>
Total Transfer to the MEDC	62,047,924
Transferred back to RDA ¹	<u>(11,886,161)</u>
Total Unallowable Transfers – MEDC ²	<u>\$ 50,161,763</u>

¹ The amounts transferred back to the RDA from the MEDC were for RDA expenditures. The transfers were for \$9,707,455, \$1,061,094, and \$1,117,612, respectively.

² Detail Listing of Assets on Attachment 2.

**Schedule 3—
Assets that Should Have Been
Transferred to the Successor Agency**

Low and Moderate Income Housing Fund (Fund 290)	8,543,276
Construction in Process ¹	<u>79,079,116</u>
Total	<u>\$ 87,622,392</u>

¹ Detail Listing of Assets on Attachment 3.

Attachment 1—

Properties Held for Resale Transferred to the City On March 7, 2011

Description	Address	Parcel #	Amount
	1432 -1440 S. Main	086-22-031	1,792,200
SCVTA	Alder Site Redevelopment	086-02-076	<u>6,988,800</u>
Total	Property Held for Resale	Unallowable Transfers	8,781,000

Capital Assets Transferred to the City On 3/7/11 and 3/28/11

Asset Description	Parcel #/Project #	Amount
Land-Parcel 1 & 2/Ayer HS	029-17-015	1,232,218
Land-Parcel 3/Ayer HS	029-17-013	616,109
Land-Parcel 4/Ayer HS	029-17012	616,109
Land-Parcel 5/Ayer HS	029-17-011	616,109
Land-1265 N. Milpitas Blvd(Public Works)	022-02-012	770,131
Land-Parcel 6/Ayer HS	029-17-010	616,109
Land-Parcel 7/Ayer HS	029-17-009	616,109
Land-Parcel 8/Ayer HS	029-17-008	616,109
Land-Parcel 9/Ayer HS	029-17-007	616,109
Land-Parcel 10/Ayer HS	029-17-006	616,109
Land-Parcel 11/Ayer HS	029-17-005	616,109
Land-Parcel 12/Ayer HS	029-17-004	616,109
Land-N. Main Street(Cracolice/YMCA)	086-10-025	39,441
Land-86 N.Main Street(Rodriguez)	028-24-025	401,690
Land - Apton 230 N. Main	028-34-001 thru-0093	6,800,000
Bldg & Improv-Community Center	n/a	825,590
Bldg & Improv-City Library	n/a	950,195
Bldg & Improv-Police & Public Works	n/a	4,441,845
Bldg & Improv-Corporate Yard	n/a	1,082,335
Bldg & Improv-Milpitas Sport Center	n/a	2,506,828
Bldg & Improv-Tower & Training Facility	n/a	328,063
Bldg & Improv-Fire Station #4	n/a	148,164
Bldg & Improv-Civic Center	CP8026	29,696,480
Bldg & Improv-Milpitas Sports Center	CP8053	4,416,813
Bldg & Improv-Police Dept-Public Works	CP8066	698,196
Bldg & Improv-ADA Fire Stations	CP8067	14,350
Bldg & Improv-Haz Material Remediation-City of Milpitas	CP8074	295,963
Bldg & Improv-Fire Station Replacement	CP8089	3,806,255
Bldg & Improv-Telecommunications Infrastructure	CP8093	3,203,374
Bldg & Improv-Storm Water Pump Improvement	CP8106	100,843
Bldg & Improv-Senior Center Renovation	CP8134	640,143
Bldg & Improv-Gateway Improv Tasman Drive	CP8146	329,543

Asset Description	Parcel #/Project #	Amount
Bldg & Improv-MSC Master Plan Imprv Phase 1	CP8149	1,146,160
Bldg & Improv-Refinish City Garage Floor	CP8150	23,610
Bldg & Improv-Interim Senior Center Project	CP8151	580,150
Bldg & Improv-Sports Center Large Gym Improv	CP8160	841,874
Bldg & Improv-Sports Center Underwater Pool	CP8163	90,418
Bldg & Improv-Public Works Security	CP8173	92,390
Bldg & Improv-Interim Senior Ctr Re-roofing	CP8178	79,853
Bldg & Improv-Sports Center Swimming Pool	CP8180	220,363
Bldg & Improv-Corporation Yard Canopies	CP8183	610,213
Bldg & Improv-Library Arts	CP8189	165,639
Land Improv-Senior Center Parking Lot	CP8005	0.00
Land Improv-Jacklin Median-Escuela to 680	CP8007	0.00
Land Improv-New Corporation Yard	CP8010	91,151
Land Improv-Milpitas Sport Center-East Parking Lot	CP8017/8042	469,465
Land Improv-City Hall Grounds Renovation	CP8028	0.00
Land Improv-Milpitas Sport Center-Pool Deck Drains	CP8054/8078	17,203
Land Improv-Civic Ctr Pond & Filtration System	CP8071	8,336
Land Improv-Public Works/Corp Yard Parking Lot	CP8083	243,689
Land Improv-Community Center Tot Lot	CP8088	43,188
Land Improv-Softball Scoreboards-Gill Pk	CP8097	33
Land Improv-Corp Yard Non-point Modifications	CP8099	220,122
Land Improv-MSC Sport Field Modifications	CP8101	10,162
Land Improv-Senior Center Entrance Modifications	CP8104	86,777
Land Improv-Civic Center Walkway Repair	CP8119	23,104
Land Improv-MSC Phases 11 & 12	CP8128	1,434
Land Improv-Range Improvements	CP8136	63,929
Land Improv-Gateway Identification	CP8137	117,421
Land Improv-City Gateway Identification(New)	CP8137B	18,245
Land Improv-City Hall Pond Improvements	CP8141	1,103,092
Land Improv-City Hall Parking/Circulation	CP8143	625,944
Mach & Equip-Senior Center Remodeling	CP8006E	0.00
Mach & Equip-Computer Master Plan	CP8020E	0.00
Mach & Equip-Computer Master Plan	CP8020E1	0.00
Mach & Equip-Phone Equipment	CP8027E1	0.00
Mach & Equip-Emergency Operation Center Equip	CP8036	249,907
Mach & Equip-New Finance System	CP8107	2,631,679
Mach & Equip-Network Hardware & Software	CP8108E	0.00
Mach & Equip-Network Hardware & Software	CP8108E1	22,370
Mach & Equip-Desktop Technology	CP8109	2,229,224
Mach & Equip-New Permits System	CP8110	58,112
Mach & Equip-Computer Aided Draft	CP8112	2,537,250
Mach & Equip-Police Records Management	CP8113E	10,930
Mach & Equip-Police & Fire CAD System	CP8115E	138
Mach & Equip-Information Management System	CP8131	660,920
Mach & Equip-Public Information	CP8132	0.00
Mach & Equip-Berryesa Pump Station Improvements	CP8138	1,198,612
Mach & Equip-Oakcreek Pump Station	CP8140	229,594
Mach & Equip-City Hall Technology	CP8142	0.00
Mach & Equip-E-Commerce	CP8145	0.00
Mach & Equip-Evidence Freezer	CP8159	90,554
CIP-Calaveras/Abel Dual Left Turn Lanes	CP8155	129,060
CIP-Street Resurfacing Project 2009	CP8194	2,233,972.
		88,165,837

Attachment 2—

Unallowable Asset Transfers to the Milpitas Economic Development Corporation

Current Assets

Date	Account #	Type of Asset	Fund 390	Fund 391	Fund 392	Fund 395	Total
3/07/11	1000	Cash	(6,579,505.16)	3,759,786.63	400,230.00	2,154.46	(2,417,334)
3/07/11	1060	Investments Specific Funds				7,477,842.99	7,477,843
3/07/11	1067	Market Gain Specific Fund				18,184.28	18,184
3/07/11	1050	Investments Pooled	37,600,000.00				37,600,000
3/07/11	1057	Market Gain	995,788.91				995,789
3/07/11	1400	Advance to Other Funds	6,389,612.20				6,389,612
3/07/11	2400	Deferred Revenue	(310,451.20)				(310,451)
3/15/11	3981	Increment	2,343,848.85				2,343,849
3/31/11	3981	Increment	1,171,924.44				1,171,924
4/18/11	3981	Increment	4,330,140.33				4,330,140
4/29/11	3981	Increment	1,365,517.46				1,365,517
5/31/11	3981	Increment	54,117.46				54,117
6/30/11	3981	Increment	2,890,690.31				2,890,690
6/30/11	3981	Increment	138,043.52				138,044
			50,389,727.03	3,759,786.63	400,230.00	7,498,181.73	62,047,924
				Transfer to	EDC		62,047,924
				Transferred	Back to RDA		(9,707,455)
				Transferred	Back to RDA		(1,061,094)
				Transferred	Back to RDA		(1,117,612)
				Amount	Demanded	Back from EDC	50,161,763

Exhibit B

List of EDC Contracts and Acquisition of Land

[Insert Attachment 2 provided by City Attorney 12/11/12]

Attachment 2

EDC contracts and Acquisition of Land

Date	Contractor	Description	Amount	Paid from EDC	Paid from City Fund	Remaining obligation
06/21/11	Shalleck Collaborative Inc	Consultant for audio Visual system (Project #9001)	100,000.00	(90,482.81)		9,517.19
07/20/11	Brad Farmer, CPA	Preparation of Form 1023	1,200.00	(1,200.00)		-
10/18/11	Chamber of Commerce	Business outreach and retention	60,000.00	(60,000.00)		-
01/21/12	Brad Farmer, CPA	EDC Tax returns	800.00	(800.00)		-
01/30/12	CRW Inc #17194	Police Evidence Room Improvement (Project #9003)	56,579.00	(56,579.00)		-
		City Staff Project Administration (Project #9003)	21,732.66	(21,732.66)		-
01/30/12	PCD #17553	City Hall Audio Visual Improvement (Project #9001)	1,146,650.00	(914,378.29)		232,271.71
		City Staff Project Administration & Inspection (Project #9001)	100,000.00	(56,850.68)		43,149.32
01/31/12	Preston Pipeline #10062	Wrigley Ford Dredging (Project #9002)	294,061.00	(206,965.48)		87,095.52
		City Staff Project Administration (Project #9002)	50,000.00	(26,365.54)		23,634.46
02/07/12	Fairbank, Maslin, Maullin, Metz & Assoc	Tax Measure Survey	32,500.00	(32,500.00)		-
06/26/12	Goldfarb & Lipman #17558	EDC legal services	80,000.00	(28,438.14)		51,561.86
		Subtotal	1,943,522.66	(1,496,292.60)	-	447,230.06
02/15/11	Mission West	Purchase of land - assigned from RDA on 3/7/11	21,780,000.00	(6,000,000.00)	(2,951,535.72)	12,828,464.28
03/08/12	APN #86-22-029 and 030	Land Purchase agreement 1452-1488 South Main	4,200,000.00	(4,200,000.00)		-
		Subtotal	25,980,000.00	(10,200,000.00)	(2,951,535.72)	12,828,464.28
		Total	27,923,522.66	(11,696,292.60)	(2,951,535.72)	13,275,694.34

Exhibit C

Oversight Board Resolution

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: January 14, 2013

ITEM VI.B. Receive Progress Report from Ad Hoc Committee on Status of Public Records Act Request to the Milpitas Economic Development Corporation and Provide Direction to Staff, if Necessary

RECOMMENDED ACTION(S):

Receive update from Ad Hoc Committee regarding status of Public Records Act Request submitted by the Oversight Board to the Milpitas Economic Development Corporation ("MEDC").

DISCUSSION:

At the December 12, 2012, meeting, the Oversight Board established an Ad Hoc Committee to work with Oversight Board legal counsel and the City Attorney, Mike Ogaz, to clarify the Oversight Board's request.

At the January 7, 2013, meeting, Mr. Ogaz reported that the MEDC has produced documents requested, except for signed Resolution #RA4-13 which he indicated he will produce if it is located. Mr. Knopf, a member of the Ad Hoc Committee, added that, after having met, the parties understood mutually what was being requested and most of the documents have been provided; however there are some documents that do not exist. Mr. Ogaz indicated that the MEDC will respond with an additional response that indicates that there are no further documents in that area.

Following the January 14, 2013, meeting, the additional response and the final documents requested were received by the Committee.

FISCAL/RESOURCE IMPACT:

None

ATTACHMENT(S):

None

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: February 25, 2013

ITEM VI.C: Update on Payment of Oversight Board Administrative & Legal Costs

RECOMMENDED ACTION(S):

Receive staff update on status of Payment of Oversight Board Administrative and Legal Costs

DISCUSSION:

At the January 7, 2013, meeting of the Oversight Board, the Board adopted Resolution No. 16, superseding the decision of Successor Agency staff not to pay the Oversight Board's legal and administrative support costs, and directing Successor Agency staff to:

- Prioritize payment of payment of administrative support services from the County and legal services provided by Miller & Owen, with the understanding that such payments would be made under protest, and if at any future time if there is a change in the California Department of Finance position, this item would be revisited.
- 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.
- Pay the October and November invoices for legal costs and expenses within five days of the effective date of the Resolution.
- Pay future invoices for Oversight Board legal and administrative support costs provided in fiscal year 2012-13 promptly from the \$130,000 set aside from the administrative cost allowance.

The Oversight Board further resolved that if the Successor Agency refused to remit payment within five days of the effective date of Resolution No. 16, legal counsel is authorized to immediately initiate litigation on behalf of the Oversight Board to compel such payment.

At the January 14, 2013, meeting, Mr. Tom Williams, Executive Director of the Successor Agency, requested copies of detailed invoices from legal counsel, stating he would not consider paying the Oversight Board's costs without the detailed invoices.

During the month of January, the Oversight Board chair provided detailed invoices to the Successor Agency for legal expenses from October, November, and December, as well as administrative costs for November and December.

As of the date of publication of this staff report, payment has not been received by the County or Miller & Owen. The schedule included in the draft ROPS reconciling the "Prior Period Estimated Obligations vs. Actual Payments" seems to suggest that at least a portion of the administrative cost allowance is available to pay for the Oversight Board's costs. However, at this time, the Successor Agency has not indicated that it will pay these costs.

Staff will prepare a resolution for distribution at the February 25th meeting recommending further action to ensure the payment of the Oversight Board's administrative and legal costs during the period of January 1, 2013, through June 30, 2013.

Prepared by:
Jennifer Gore, Oversight Board Legal Counsel