

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: May 13, 2013

ITEM V.A: ELECT CHAIR AND VICE-CHAIR

RECOMMENDED ACTION(S):

Elect a Chair and Vice-chair, pursuant to Section 200 of the Oversight Board's adopted Rules and Regulations.

DISCUSSION:

On December 12, 2012, the Oversight Board elected Mike Mendizabal and Marsha Grilli to serve as the interim Chair and Vice-chair of the Oversight Board, respectively.

The Oversight Board's adopted Rules and Regulations state:

"The Board shall, in regular session following the first day of March of every year, elect from its members a Chair and Vice-Chair. The term of office shall be for one (1) year."

As this is the first meeting following March first, staff recommends that the Board elect a Chair and Vice-chair at this meeting.

ATTACHMENT(S):

None

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: May 13, 2013

ITEM VI.B: Discussion Regarding Appointments to Oversight Board

RECOMMENDED ACTION(S):

Receive information in response to the City Manager's question, raised at the February 25, 2013, regarding the County's "public member" on the Oversight Board.

DISCUSSION:

At the February 25, 2013, the Milpitas City Manager requested that an item be included on the next Oversight Board agenda to address his question: "Who is the County's 'public member?'"

Attached is a letter from the County to Mr. Tom Williams, sent January 15, 2013, reflecting the County's appointments to the Milpitas Oversight Board. While the letter does not reflect which member is the "public member," staff has independently confirmed that Mr. Murdter is the public member.

Since the date of this letter, there have been several changes to the County's appointments. Mr. Toby Wong resigned from the Oversight Board following the January meeting, and was replaced by his alternate, Mr. Glen Williams. Mr. Mike McInerney and Mr. Alan Minato were also introduced as County alternates at the February 25th meeting.

Because the Oversight Board does not appoint its own members, this is an informational item only. The Oversight Board has no power to modify its appointments.

Prepared by:
Jennifer Gore,
Oversight Board Legal Counsel

County of Santa Clara

Office of the County Executive

County Government Center, East Wing
70 West Hedding Street, 11th Floor
San Jose, California 95110
(408) 299-5102
jeff.smith@ceo.sccgov.org



Jeffrey V. Smith
County Executive

January 15, 2013

Mr. Tom Williams
City Manager, Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035

Dear Tom,

On January 15, 2013, the Board of Supervisors made the following appointments to the Successor Agency Oversight Board for the City of Milpitas:

Primary

Bruce Knopf
bruce.knopf@ceo.sccgov.org

Michael Mürdter
michael.murdter@rda.sccgov.org

Alternate

Glen Williams
glen.williams@ceo.sccgov.org

John Guthrie
john.guthrie@fin.sccgov.org

Special District

Toby Wong (Primary)
excmdr@yahoo.com

Glen Williams (Alternate)
glen.williams@ceo.sccgov.org

John Guthrie (Alternate)
john.guthrie@fin.sccgov.org

Sincerely,

Jeffrey V. Smith
County Executive

c: Emily Harrison, Deputy County Executive, County of Santa Clara
Lori Pegg, Acting County Counsel

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: May 13, 2013

ITEM V.C: WORKSHOP REGARDING THE DISPOSITION AND CONVEYANCE OF SPECIFIED GOVERNMENTAL USE BUILDINGS AND PUBLIC IMPROVEMENTS TO THE CITY OF MILPITAS

RECOMMENDED ACTION(S):

Hold a workshop regarding the potential disposition and conveyance of certain governmental use buildings and public improvements (specified in Exhibits A and 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 are the staff reports and two draft resolutions prepared by the Successor Agency, for your review. These are the same staff reports and draft resolutions that were provided at your February 25, 2013, meeting.

The City will present additional information on these properties and the Oversight Board will have an opportunity to ask questions about the various properties listed. This item has not been noticed to allow the Oversight Board to take action on this item at this time

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: May 13, 2013

ITEM VI.A: 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 February 28, 2013, the Successor Agency provided payment to the County for the services of the Oversight Board's clerk, as well as a partial payment to the Oversight Board's counsel, Miller & Owen.

No payments have been received since that time. At this time, staff does not recommend that the Oversight Board take any action on this item.

At the February 28, 2013, meeting, the Oversight Board agreed to meet in July to reconsider the Successor Agency's administrative cost budget. The Successor Agency will receive its administrative cost allowance for the period of July 1, 2013, through December 31, 2013, in June 2013. At that time, the Successor Agency will have funds available to pay the Oversight Board's administrative expenses.

In the event that no payments are made upon the Successor Agency's receipt of its administrative cost allowance, staff will recommend a course of action to compel payment.

Prepared by:
Jennifer Gore, Oversight Board Legal Counsel