

MILPITAS OVERSIGHT BOARD

TO THE RDA SUCCESSOR AGENCY FOR THE CITY OF MILPITAS

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

MEETING OF THE MILPITAS OVERSIGHT BOARD

Thursday, September 18, 2014, at 4:00 PM

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

MEMBERS:

Maribel Medina, Chair
Armando Gomez
Emma Karlen
Bruce Knopf
Mike Mendizabal
Mike McInerney
Glen Williams

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 AGENDA

IV. APPROVAL OF MINUTES FOR FEBRUARY 20, 2014, AND JUNE 19, 2014, MEETINGS

V. NEW BUSINESS:

- A. Approve Agreement for Allowance to Use Bond Proceeds
- B. Approve Next Steps for Development of Long Range Property Management Plan
- C. Approve Successor Agency's Administrative Budget for January to June 2015 (FY 14-15B)
- D. Consider Requested Revision to the Agreement between Sun Power, Inc., and the Former Redevelopment Agency
- E. Approve Recognized Obligation Payment Schedule for January to June 2015 (FY 14-15B)

- F. Consider Request to Authorize Issuance of Refunding Bonds for 2003 Tax Allocation Bonds
- G. Consider Request to Terminate Standstill Agreement Between Oversight Board and Milpitas Entities

VI. SET NEXT MEETING DATE

VII. 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.

- F. Consider Request to Authorize Issuance of Refunding Bonds for 2003 Tax Allocation Bonds
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MILPITAS OVERSIGHT BOARD

TO THE CITY OF MILPITAS ACTING AS THE RDA SUCCESSOR AGENCY

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MILPITAS OVERSIGHT BOARD MEETING

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

MEMBERS:

Michael Mendizabal, Chairman
Armando Gomez
Maribel Medina
Emma Karlen
Bruce Knopf
Mike McInerney
Glen Williams

ALTERNATES:

Felix Reliford
Nimrat Johal
Jane Corpus Takahashi
John Guthrie
Michael Murdter
Alan Minato

DRAFT Minutes of the February 20, 2014, Meeting

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

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

ROLL CALL

MEMBERS PRESENT: Mike Mendizabal, Maribel Medina, Emma Karlen,
Bruce Knopf, Mike McInerney, Felix Reliford, & Glen Williams

Chair Mendizabal introduced the new board member, Maribel Medina, representing the Santa Clara County Board of Education.

II. PUBLIC FORUM None.

III. APPROVAL OF MEETING MINUTES FOR SEPTEMBER 12, 2013

Moved by Ms. Karlen and seconded by Mr. Knopf, the draft minutes from the September 12, 2013, meeting were approved by the following vote:

AYES: Karlen, Knopf, Mendizabal, McInerney, Williams

ABSTAIN: Medina, Reliford

IV. APPROVAL OF AGENDA

Moved by Ms. Karlen and seconded by Mr. Reliford, to approve the agenda as revised to move Item V.A. to the end of the agenda. The motion passed unanimously.

VI. NEW BUSINESS

A. Approve Successor Agency's Administrative Budget for July to December 2014 (FY 14-15A)

Ms. Gore presented the staff report recommending approval of the Successor Agency's Administrative budget for July to December 2014 (FY 14-15A).

Mr. McInerney requested clarification on the line item showing Wells Fargo Bank fees in the amount of \$1,000. Ms. Karlen responded that it is a new fee due to the set-up of a separate checking account for the Successor Agency for ease of accounting.

Mr. McInerney also requested clarification on the line item for Maze & Associates audit costs, which were increasing from \$4,500 to \$8,000. Ms. Karlen responded that more time was spent analyzing the Successor Agency's accounts than anticipated, and that the final cost was closer to \$8,000.

Ms. Medina asked about the line item for ABAG PLAN property insurance in the amount of \$47,000. Ms. Medina requested a separate list identifying the insured properties. Ms. Karlen responded that there is a property list, based on what properties belong to the Successor Agency. Ms. Karlen agreed to provide a copy of the property list.

After additional discussion, it was moved by Mr. McInerney and seconded by Ms. Karlen to approve the budget as submitted along with the Oversight Board's request that the list of insured properties be provided to the Board by the close of business on Monday, February 24, 2014. The resolution was passed unanimously.

B. Allocate Funds for Appraisal Services on the Recognized Obligation Payment Schedule for July to December 2014 (ROPS 14-15A)

Ms. Gore recommended that the Board to hear a presentation by Oversight Board Member Bruce Knopf, and consider: (1) including a line item for appraisal services on ROPS 14-15A (Item VI.C) and (2) forming an ad hoc committee of the Oversight Board to solicit the services of an independent appraiser.

After a lengthy discussion, it was moved by Ms. Medina and seconded by Mr. Williams to add a line item to ROPS 14-15A allocating funds in the amount of \$40,000 for property appraisal services and to form a sub-committee to work with the Successor Agency and City staff to solicit appraisal services. The resolution passed unanimously.

Mr. Williams, Ms. Medina and Ms. Karlen agreed to serve on the sub-committee. It was moved by Mr. Knopf and seconded by Mr. Reliford to accept the sub-committee members. The motion passed unanimously.

C. Approve Recognized Obligation Payment Schedule for July to December 2014 (14-15A)

Ms. Gore presented the staff report, adding that the Recognized Obligation Payment Schedule for July to December 2014 (14-15A) resolution will need to be revised to reflect the addition of the line item appraisal services.

The County Auditor-Treasurer provided copies of a letter of objection to the ROPS as prepared by Successor Agency staff. Veronica Niebla, Division Manager, Controller-Treasurer's Department, provided a synopsis of the County Auditor-Treasurer's objection letter.

There was a lengthy discussion among the Board members, legal counsel, City staff and County staff regarding the Successor Agency's inclusion of a line item for a \$200,000 payment to Sun Power. Mr. Deepak Gupta of SunPower addressed the board and discussed the contract, pointing out that on page 6 of the agreement, the termination date is January 2016. Mr. Gupta also provided a press release regarding SunPower's performance.

Ms. Gore explained that the proposed revision of SunPower's agreement was not an item listed on the Oversight Board's agenda, and that the Successor Agency's request to modify the terms of the contract would have to be brought back on a future agenda.

After additional discussion, it was moved by Ms. Medina and seconded by Mr. McInerney to approve the ROPS payment schedule incorporating the following changes:

- 1) Include a new line item 11, to provide \$40,000 for property appraisals;
- 2) Revise column J for line items 3, 4, 6, 7, 8, & 10, consistent with the Santa Clara County Controller-Treasurer's Notice of Objections, to reflect that these line items are retired ("N" changed to "Y");
- 3) Revise column I, line item 5, to reflect that the total outstanding is \$0, but also adding a note stating the "The amount outstanding (ranging between \$0 and \$200,000) is in dispute and will be considered at a future meeting of the Oversight Board," and column J, item 5 will remain a "Y" to reflect that the item is not yet retired; and
- 4) Revise the note for line item 2 to state that "The maturity dates is the earlier of 6-30-2038 or the termination date of the Redevelopment Plan (6-17-2034).

The revised resolution was approved by the following vote:

AYES: Knopf, McInerney, Medina, Williams

NOES: Karlen, Mendizabal, Reliford

V. OLD BUSINESS

A. Continued Workshop Regarding the Disposition and Conveyance of Specified Governmental Use Buildings and Public Improvements to the City of Milpitas for Continued Governmental Use, Operation, and Maintenance, and Consider Directing successor Agency Staff and Oversight Board counsel to Provide Additional Information.

Ms. Gore gave a brief background on the item, including her understanding that the additional information requested by the Oversight Board at its previous meeting still had not been provided. r

Mr. Knopf then addressed the Board and presented his memo and a video of a City of Milpitas Council Meeting held September 7, 2004.

Following additional discussion, it was moved by Mr. Knopf and seconded by Mr. Williams to have the Successor Agency return with an off-agenda report to the Board addressing the two (2) questions listed in the memo. The motion passed with the following vote:

AYES: Mendizabal, Knopf, McInerney, Medina, Williams

NOES: Karlen, Reliford

It was then moved by Mr. Knopf and seconded by Mr. Williams, that this item be deferred until the Successor Agency either receives a Finding of Completion or until after January 1, 2015, or other date as amended by statute. The motion passed with the following vote:

AYES: Mendizabal, Knopf, McInerney, Media, Williams

NOES: Karlen, Reliford

VII. AGENDA ITEMS FOR NEXT MEETING

The Board requested that the following items be included on the next agenda:

Elections

The Board also agreed that other items could be placed on the agenda at the request of two Board members, pursuant to the Board's adopted Rules and Regulations.

VIII. SET NEXT MEETING DATE

The next meeting will be Thursday, September 18, 2014, at 4:00 p.m.

ADJOURNMENT

Chair Mendizabal adjourned the meeting at 6:43 p.m.

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

Approved on September 18, 2014:

Maribel S. Medina
Oversight Board Chair

Barbara Crump
Oversight Board Secretary

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

MILPITAS OVERSIGHT BOARD SPECIAL MEETING

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

MEMBERS:

Michael Mendizabal, Chairman
Armando Gomez
Maribel Medina
Emma Karlen
Bruce Knopf
Mike McInerney
Glen Williams

ALTERNATES:

Felix Reliford
Nimrat Johal
Jane Corpus Takahashi

Michael Murdter
Alan Minato

DRAFT Minutes of the June 19, 2014, Special Meeting

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

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

ROLL CALL

MEMBERS PRESENT: Mike Mendizabal, Maribel Medina, Armando Gomez, Emma Karlen, Mike McInerney, Michael Murdter,* and Glen Williams

* Bruce Knopf arrived at 4:07, during item IV.A., at which time his alternate Mr. Murdter moved to the audience

MEMBERS ABSENT: None

II. PUBLIC FORUM None.

III. APPROVAL OF AGENDA

Moved by Mr. McInerney and seconded by Mr. Williams, to approve the agenda which passed unanimously.

V. NEW BUSINESS

A. Adopt Resolution(s) Directing the Transfer of Government Use Properties and Capital Assets to the City of Milpitas Pursuant to Health and Safety Code Section 34191(a).

Ms. Gore presented the staff report recommending adopting a resolution transferring Government Use Properties and Capital Assets to the City of Milpitas. A settlement agreement was approved by the City of Milpitas, the Successor Agency, the Milpitas Economic Development Corporation, the Milpitas Housing Authority, the County of Santa Clara and its Auditor-

Controller, the Santa Clara County Office of Education, the State Controller and the State Department of Finance. Ms. Gore explained that, under the settlement, the parties had agreed to jointly recommend that the Oversight Board approve the transfer of specified properties as “government use.” Based on this provision the Oversight Board had called a special meeting to consider the transfer. She then suggested that the attorneys that had negotiated the settlement agreement provide additional information on its terms.

Mr. James Williams, Deputy County Executive, thanked the City Manager, Mr. Tom Williams, the City Attorney, Mr. Mike Ogaz, and the Finance Director, Ms. Emma Karlan, for their hard work in reaching a settlement agreement. Mr. Williams reported that the overall settlement deals with all the issues that were involved in the litigation, including the due diligence review cash remittance, the State Controller’s audit, and the property transfers. Mr. Williams explained that if the Board approved the government use property resolution, it would allow the transfer of the listed properties to the City, contingent upon the City making the full cash remittance payment. Following the cash remittance payment, the City would receive a finding of completion. The City is required to return the remaining properties to the Successor Agency. The disposition of these properties would be addressed later as part of a long range property management plan. The County jointly recommended approval of the resolution.

Mr. Ogaz concurred with Mr. Williams, adding that the agreement has been signed and executed by the Milpitas entities, as well as the State Controller, Department of Finance, County entities, and the County Office of Education. Mr. Ogaz also recommended that the Oversight Board adopt the resolution. Mr. Ogaz pointed out that normally the DOF would have the ability to review the Board’s decision on government use properties but, in this case, DOF pre-reviewed the settlement agreement and agreed to its contents.

Chair Mendizabal asked if the McCandless property would stay with the Milpitas Economic Development Corporation (MEDC). Mr. James Williams confirmed that the property would stay with the MEDC, but that the cash remittance includes the return of the cash used to purchase the property. The property had not been ordered back by the State Controller or the Department of Finance.

It was moved by Mr. Murdter and seconded by Mr. McInerney to approve the resolution directing the transfer of Government Use Properties and Capital Assets to the City of Milpitas. The resolution passed with the following vote:

AYES: Mendizabal, Medina, Gomez, Karlan, Knopf, McInerney & Williams

NOES: (0)

Ms. Medina commended all parties for negotiating the deal and thanked them for all their hard work. Mr. Knopf commented that a lot of hard work went into this and the agreement shows it. Mr. Glen Williams concurred with Ms. Medina and Mr. Knopf, and expressed that he is looking forward to working together.

B. Elect Chair and Vice-Chair of the Board

Ms. Gore presented the item, explaining that Section 200 of the Oversight Board’s adopted Rules and Regulations provide that the Board shall elect a chair and vice chair at the first regular meeting following the first day of March every year..

After some discussion, it was moved by Mr. Knopf and seconded by Mr. Glen Williams to nominate Ms. Maribel Medina as Chair and Mr. Mike McInerney as Vice-Chair.

Ms. Karlan offered an alternative motion, nominating Mr. Mendizabal as Chair. Mr. Mendizabal thanked her for the nomination, but declined the nomination before any second was offered.

Mr. Knopf’s motion was approved unanimously.

Mr. Mendizabal invited Ms. Medina to chair the remainder of the meeting.

Ms. Medina thanked Mr. Knopf for the nomination and the honor of serving the Board as Chair.

V. SET NEXT MEETING DATE

The next regular meeting will be Thursday, September 18, 2014, at 4:00 p.m.

ADJOURNMENT

Moved by Mr. Gomez and seconded by Mr. Knopf to adjourn the meeting, which passed unanimously. Chair Medina adjourned the meeting at 4:18 p.m.

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

Approved on September 18, 2014:

Maribel S. Medina
Oversight Board Chair

Barbara Crump
Oversight Board Secretary

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.A: CONSIDER AGREEMENT FOR ALLOWANCE TO USE BOND PROCEEDS

RECOMMENDED ACTION(S):

Approve the Successor Agency's request to enter into an agreement with the City of Milpitas to allow the City to spend the remaining \$3.98 million in bond proceeds held by the Successor Agency to implement the Main Street Pavement Reconstruction Project, consistent with the bond covenants, Redevelopment Law, and other applicable laws.

DISCUSSION:

City Staff has prepared the attached memorandum, resolution, and Bond Expenditure Agreement requesting that the Oversight Board approve the execution and implementation of the proposed Bond Expenditure Agreement.

As set forth in the City's memorandum, the Dissolution Law does allow a Successor Agency to utilize proceeds derived from bonds issued prior to January 1, 2011, in a manner consistent with the original bond covenants following the receipt of a "finding of completion" from the Department of Finance (DOF). (Health and Safety Code section 34191.4(c).)

The Successor Agency received its finding of completion from DOF on June 27, 2014, the Milpitas Successor Agency is now eligible to spend its current bond proceeds.

The proposed Bond Expenditure Agreement provides that the City will spend the remaining \$3.98 million in bond proceeds to implement the Main Street Pavement Reconstruction Project. Similar Bond Expenditure Agreements have been approved statewide to allow the use of bond funds on projects, particularly where the full cost of the project exceeds the available bond funds.

Oversight Board Counsel reviewed the City Attorney's documents, and requested that the Bond Expenditure Agreement be revised to include two additional provisions – an indemnity clause and a default provision. These additional provisions are reflected in the attached draft.

ATTACHMENT(S):

City Memorandum
Resolution and Bond Expenditure Agreement

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

OVERSIGHT BOARD MEMORANDUM

TO: OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS RDA
FROM: EMMA KARLEN, CITY OF MILPITAS FINANCE DIRECTOR
SUBJECT: APPROVE EXECUTION AND IMPLEMENTATION OF A BOND EXPENDITURE AGREEMENT
DATE: 09/08/2014
CC: JENNIFER GORE, OVERSIGHT BOARD GENERAL COUNSEL

The Successor Agency received a Finding of Completion from the State Department of Finance on June 27, 2014. The Finding of Completion specifically states that the Successor Agency may utilize proceeds derived from bond issued prior to January 1, 2011 in a manner consistent with the original bond covenants per HSC section 34191.4(c).

The Successor Agency has unspent bond proceeds of \$3,989,878 that was intended to be used for the reconstruction of Main Street. The project was specifically identified in the bond issuance documents and the City's Five Year Capital Improvement Plan. Main Street is one the "backbone" street located in the Redevelopment Midtown Area. The project was on hold pending resolution of the City entities lawsuit with the County of Santa Clara and the State. With the receipt of the Finding of Completion, the Successor Agency would like to utilize the bond proceeds to fund the Main Street reconstruction project.

The City requested that the Successor Agency enter into a bond expenditure agreement in order to undertake the project. The bond proceeds will be transferred to the City and will be expended in compliance with the bond covenants, the Redevelopment Law and other applicable laws for purposes of implementing the Main Street Pavement Reconstruction Project identified in the 2014-19 Five Year Capital Improvement Program for the City of Milpitas.

RECOMMENDATION: That the Board adopts a resolution approving the execution and implementation of a Bond Expenditure Agreement.

RESOLUTION NO. __

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS APPROVING AND DIRECTING SUCCESSOR AGENCY EXECUTION AND IMPLEMENTATION OF A BOND EXPENDITURE AGREEMENT WITH THE CITY OF MILPITAS

WHEREAS, pursuant to ABx1 26 enacted in June 2011 (as amended by AB 1484 enacted in June 2012, the "Dissolution Law"), the Redevelopment Agency of the City of Milpitas (the "Dissolved RDA") was dissolved as of February 1, 2012, and the City of Milpitas, acting in a separate limited capacity and known as the Successor Agency of the Redevelopment Agency of the City of Milpitas, has elected to serve as the successor agency (the "Successor Agency") of the Dissolved RDA; and

WHEREAS, pursuant to Health and Safety Code Section 34173(g), as added by the Dissolution Law, the Successor Agency is a separate legal entity from the City of Milpitas (the "City"); and

WHEREAS, the City Council of the City of Milpitas serves in a separate capacity as the governing board of the Successor Agency; and

WHEREAS, the Successor Agency is charged with paying the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Dissolved RDA; and

WHEREAS, an oversight board for the Successor Agency (the "Oversight Board") has been formed and is functioning in accordance with Health and Safety Code Section 34179; and

WHEREAS, prior to its dissolution, the Dissolved RDA issued the following bonds: (See attached Exhibit A) (collectively, the "Bonds"). Proceeds of the Bonds were provided to the Dissolved RDA to be used for redevelopment purposes; and

WHEREAS, the Successor Agency received its Finding of Completion under California Health and Safety Code Section 34179.7 from the California Department of Finance on June 27, 2014; and

WHEREAS, California Health and Safety Code Section 34191.4(c) allows a successor agency that has received a finding of completion to use bond proceeds from bonds issued prior to 2011 for purposes for which the bonds were sold, provides that such proceeds in excess of amounts needed to satisfy approved enforceable obligations shall be expended in a manner consistent with the original bond covenants, and further provides that such expenditures shall

constitute "excess bond proceeds obligations" that shall be listed separately on the successor agency's Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, the Successor Agency holds pre-2011 tax allocation bond proceeds from the issuance of the Bonds that are not otherwise obligated for approved enforceable obligations under the Redevelopment Dissolution Law (the "Excess Bond Proceeds"); and

WHEREAS, the Successor Agency and the City desire to enter into a Bond Expenditure Agreement (the "Agreement"), substantially in the form accompanying this Resolution, to enable the City to use the Excess Bond Proceeds for the redevelopment purposes for which the tax allocation bonds were sold, in a manner consistent with the bond covenants, by undertaking projects, programs and activities that were not previously funded and obligated by the Successor Agency prior to the enactment of the Redevelopment Dissolution Law; and

WHEREAS, the expenditure of Excess Bond Proceeds in accordance with this Agreement will benefit the affected taxing entities, because such expenditures will help eliminate physical, economic, and social burdens and blight within the applicable project area and promote the public peace, health, safety, and welfare through the construction of public infrastructure and community facilities within the former Redevelopment Area consistent with the Bond restrictions, thereby increasing the economic vitality of the areas through increased property tax revenues, sales tax revenues, and job creation, and improving the overall quality of life for the area's residents.

WHEREAS, the Agreement will effectuate the Successor Agency's efforts and obligations to expeditiously wind down the affairs of the Dissolved RDA in accordance with Health and Safety Code Section 34177(h); and

WHEREAS, California Health and Safety Code Section 34178 allows a successor agency and its sponsoring city to enter into agreements with the approval of the oversight board; and

WHEREAS, in accordance with Health and Safety Code Section 34180(h), upon request by the Successor Agency, the Oversight Board may approve an agreement between the Successor Agency and the City; and

WHEREAS, the Agreement will become effective only upon approval and direction of the Oversight Board and certain other actions pursuant to the Dissolution Law, as fully provided in Section 1 of the Agreement; and

WHEREAS, approval of this Resolution and execution and implementation of the Agreement do not constitute a "project" within the meaning of and are exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines (collectively, "CEQA"), as it can be seen with certainty that there is no possibility that such approval, execution and implementation will have a significant effect on the environment (see particularly, 14 California Code of Regulations Section 15061(b)(3)); and

WHEREAS, the staff report (the "Staff Report") accompanying this Resolution contains additional information and analysis upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board of the Successor Agency hereby finds, resolves, determines, and directs as follows:

SECTION 1. The foregoing Recitals are true and correct, and together with the Staff Report and other information provided by the Successor Agency staff and the public, form the basis for the findings, resolutions, approval, determinations, and directions set forth in this Resolution.

SECTION 2. Approval of this Resolution and execution and implementation of the Agreement are exempt from the requirements of CEQA. The Oversight Board's legal counsel, is hereby authorized and directed to file a notice of exemption in accordance with CEQA in connection with approval of this Resolution and execution and implementation of the Agreement.

SECTION 3. Pursuant to Health and Safety Code Section 34180(h), the Oversight Board hereby approves the entry by the Successor Agency into the Agreement with the City, and the execution of the Agreement by the Successor Agency's Executive Director or the Executive Director's designee, on behalf of the Successor Agency, substantially in the form as attached hereto.

SECTION 4. The Oversight Board hereby directs its legal counsel to provide written notice and information about this Resolution to the California Department of Finance in accordance with Health and Safety Code Section 34179(h). The actions set forth in this Resolution shall be subject to effectiveness in accordance with Health and Safety Code 34179(h).

ADOPTED September 18, 2014, by the Members of the Oversight Board of the Successor Agency by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair

EXHIBIT A

EXCESS BOND PROCEEDS

Milpitas Redevelopment Agency Redevelopment Project Area No. 1 Tax Allocation Bonds,
Series 1997 \$524,926

Milpitas Redevelopment Agency Redevelopment Project Area No. 1 2003 Tax Allocation Bonds
\$3,464,952

BOND EXPENDITURE AGREEMENT

This Bond Expenditure Agreement (the "Agreement") is entered into as of _____, 2014 by and between the Successor Agency of the Redevelopment Agency of the City of Milpitas, a public entity (the "Successor Agency"), and the City of Milpitas, a municipal corporation (the "City"). The Successor Agency and the City (sometimes together referred to as the "parties", and individually as a "party") have entered into this Agreement on the basis of the following facts, understandings, and intentions:

RECITALS

A. This Agreement is entered into to implement terms and requirements of ABx1 26 enacted June 28, 2011, as modified by AB 1484 enacted June 27, 2012 (collectively, the Redevelopment Dissolution Law").

B. In accordance with the Redevelopment Dissolution Law:

1. The former Redevelopment Agency of the City of Milpitas (the "Dissolved RDA") was dissolved as of February 1, 2012 pursuant to Health and Safety Code Section 34172(a).

2. On January 4, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City adopted a resolution declaring that the City would act in a limited capacity as the Successor Agency for the Dissolved RDA. Health and Safety Code Section 34173(g) (added to the Redevelopment Dissolution Law by AB 1484) clarifies that the Successor Agency is a separate and distinct legal entity from the City.

3. The Successor Agency is charged with paying the enforceable obligations, disposing of the properties and other assets, and unwinding the affairs of the Dissolved RDA.

4. An oversight board for the Successor Agency (the "Oversight Board") has been formed and is functioning in accordance with Health and Safety Code Section 34179.

C. Prior to its dissolution, the Dissolved RDA issued the following bonds: Milpitas Redevelopment Agency Redevelopment Project Area No. 1 Tax Allocation Bonds, Series 1997 and Milpitas Redevelopment Agency Redevelopment Project Area No. 1 2003 Tax Allocation Bonds (collectively, the "Bonds"). Proceeds of the Bonds were provided to the Dissolved RDA to be used for redevelopment purposes.

D. Pursuant to the bond indentures and trust for the Bonds, the Successor Agency is required to file annual continuing disclosure statements for each bond issuance (the "Continuing Disclosures").

E. From time to time, and to reduce debt service costs, the Successor Agency may choose in the future to participate in bond refundings as permitted under the Redevelopment

Dissolution Law, which require the Successor Agency to affirmatively represent that bond proceeds have been used in accordance with the respective tax certificate and other bond documents (the "Refunding Representations").

F. The Successor Agency received its Finding of Completion under California Health and Safety Code Section 34179.7 from the California Department of Finance on June 27, 2014.

G. California Health and Safety Code Section 34191.4(c) allows a successor agency that has received a finding of completion to use bond proceeds from bonds issued prior to 2011 for purposes for which the bonds were sold, provides that such proceeds in excess of amounts needed to satisfy approved enforceable obligations shall be expended in a manner consistent with the original bond covenants, and further provides that such expenditures shall constitute "excess bond proceeds obligations" that shall be listed separately on the successor agency's Recognized Obligation Payment Schedule ("ROPS").

H. The Successor Agency holds pre-2011 tax allocation bond proceeds that are not otherwise obligated for approved enforceable obligations under the Redevelopment Dissolution Law as set forth on Exhibit A (the "Excess Bond Proceeds").

I. The California Community Redevelopment Law (California Health and Safety Code Section 33000, *et seq.*) (the "Redevelopment Law") provides for a cooperative relationship between cities and their redevelopment agencies, as well as their successor agencies which have assumed the duties and obligations of the former redevelopment agencies. Under California Health and Safety Code Section 33220, a city may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. California Health and Safety Code Section 33220(e) specifically authorizes a city to enter into an agreement with any other public entity to further redevelopment purposes. California Health and Safety Code Section 34178 allows a successor agency and its sponsoring city to enter into agreements with the approval of the oversight board.

J. The City has requested that the Successor Agency provide the Excess Bond Proceeds to the City to enable the City to use such proceeds for the redevelopment purposes for which the tax allocation bonds were sold, in a manner consistent with the bond covenants, by undertaking projects, programs and activities that were not previously funded and obligated by the Successor Agency prior to the enactment of the Redevelopment Dissolution Law.

K. The Oversight Board for the Successor Agency has determined that the expenditure of Excess Bond Proceeds in accordance with this Agreement will benefit the affected taxing entities, because such expenditures will help eliminate physical, economic, and social burdens within the applicable project area and promote the public peace, health, safety, and welfare through the reconstruction of Main Street from Carlo to Curtis, thereby increasing the economic vitality of the areas through increased property tax revenues, sales tax revenues, and job creation, and improving the overall quality of life for the area's businesses and residents. The Oversight Board has approved the execution of this Agreement and the provision of Excess Bond Proceeds to the City for the purposes described herein.

L. To facilitate the use of Excess Bond Proceeds consistent with the bond covenants, the Successor Agency and the City have negotiated this Agreement authorizing the transfer of

Excess Bond Proceeds by the Successor Agency to the City, and the City's use of such proceeds consistent with applicable bond covenants and this Agreement. The parties intend that this Agreement shall constitute an "excess bond proceeds obligation" within the meaning of California Health and Safety Code Section 34191.4(c)(2)(A) to be paid from Excess Bond Proceeds. With Oversight Board approval, the Successor Agency shall list this Agreement authorizing the transfer of Excess Bond Proceeds, on its ROPS for January through June of 2015 ("ROPS 14-15B") as an obligation to be funded with Excess Bond Proceeds.

M. This Agreement will become effective only upon approval and direction of the Oversight Board and certain other actions pursuant to the Redevelopment Dissolution Law, as fully provided in Section 1.

NOW, THEREFORE, the Successor Agency and the City agree as follows:

Section 1. Effectiveness of Agreement. This Agreement shall become effective only upon satisfaction of the following conditions:

(a) Approval of this Agreement and direction by the Oversight Board for the Successor Agency to execute and implement this Agreement pursuant to Health and Safety Code Section 34180(h) (the "Oversight Board Action"); and

(b) Notification to the California Department of Finance of the Oversight Board Action and effectiveness of the Oversight Board Action in accordance with the provisions of Health and Safety Code Section 34179(h).

Section 2. Transfer of Excess Bond Proceeds. The Successor Agency shall transfer to the City, no later than January 31, 2015, Excess Bond Proceeds in the amount of three million nine hundred eighty nine thousand eight hundred and seventy eight dollars (\$3,989,878) or such other amount as approved on ROPS 14-15B.

Section 3. Expenditure of Excess Bond Proceeds. The City shall accept, hold, and use the Excess Bond Proceeds transferred to the City by the Successor Agency in compliance with the applicable bond covenants, the provisions of this Agreement and the Redevelopment Law. The City shall place the Excess Bond Proceeds in segregated account or accounts.

The City may spend Excess Bond Proceeds received or retained under this Agreement for any project, program, or activity authorized under the Redevelopment Law; provided that the City must spend Excess Bond Proceeds consistent with the bond covenants applicable to the particular Excess Bond Proceeds, including without limitation all requirements relating to maintaining the tax-exempt nature of any tax-exempt bonds, and in accordance with the applicable provisions of federal, state and local laws, including environmental laws such as the California Environmental Quality Act. The City shall be responsible for ensuring that Excess Bond Proceeds are maintained and spent in the Redevelopment Project Area and in accordance with the bond covenants applicable to the particular Excess Bond Proceeds, the Redevelopment Law and other applicable laws.

In particular, the City will expend the bond proceeds in compliance with the bond covenants, the Redevelopment Law and other applicable laws for purposes of implementing the Main Street

Pavement Reconstruction Project identified in the 2014-19 Five Year Capital Improvement Program for the City of Milpitas.

The City represents that it has reviewed the closing transcript for each of the tax-exempt tax allocation bond issues listed in Recital C and is aware of the covenants restricting the use of each respective bond issue. The City shall not take nor allow any recipient of the Excess Bond Proceeds to take any action that results in the inclusion in gross income from federal or State of California income tax purposes of the interest on the Excess Bond Proceeds derived from the tax-exempt bond issuances. The City shall diligently carry out and continue to completion, with all practicable dispatch, the work required for each project, program and activity funded by Excess Bond Proceeds, in a sound and economical manner. Subject to the covenants herein, the City shall have the sole responsibility with respect to the planning, design, specification, and implementation with respect to all components of the projects, programs and activities to be funded by the City with Excess Bond Proceeds. The City shall disburse or encumber one hundred percent (100%) of the Excess Bond Proceeds for eligible projects, programs or activities within five (5) years following the Effective Date of this Agreement. Excess Bond Proceeds shall be deemed encumbered if committed pursuant to a duly executed contract for expenditure for eligible projects, programs, or activities. All Excess Bond Proceeds shall be disbursed within ten (10) years following the Effective Date of this Agreement, or such sooner time as required by the applicable bond covenants. Any Excess Bond Proceeds that are not disbursed within the ten (10) year period described in the previous sentence shall be returned to the Successor Agency within thirty (30) days following the end of such ten (10) year period.

Section 4. Modification of Bond Covenants. In the event that following the Effective Date of this Agreement, the Successor Agency modifies any of the bond covenants with respect to any of the tax allocation bonds listed in Recital C, the Successor Agency shall provide written notice to the City of such modifications in accordance with Section 8 prior to the date of effectiveness of any such modification.

Section 5. Reporting. The City shall provide quarterly accounting of the use of Excess Bond Proceeds to the Successor Agency. Upon the Successor Agency's request, the City shall provide the Successor Agency with information reasonably required by the Successor Agency to meet its Continuing Disclosure Requirements and to allow the Successor Agency to make the necessary Refunding Representations. The City shall provide such other information related to the use of the Excess Bond Proceeds as reasonably requested from time to time by the Successor Agency.

Section 6. Records. The City shall maintain complete and accurate financial accounts, documents and records with respect to the performance of its obligations under this Agreement, and shall make same available to the authorized agents of the Successor Agency for copying and auditing upon reasonable prior notice. Such accounts, documents and records shall be retained by the City for at least three years following completion of any improvements involving expenditure of Excess Bond Proceeds.

Section 7. Inspection of Documents. During the regular office hours and upon reasonable prior notice, the Successor Agency, through its duly authorized representatives, shall

have the right to inspect and make copies of any books, records or reports of the City pertaining to this Agreement.

Section 8. Miscellaneous Provisions.

(a) Notices. Any notice or communication required to be given under this Agreement by a party shall be in writing, and may be given either personally or by reputable overnight courier or by registered or certified mail, return receipt requested. If delivered by registered or certified mail, a notice shall be deemed to have been given and received on the first to occur of: (a) actual receipt by any of the addressees designated below as a party to whom notices are to be sent; or (b) five (5) days after the registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If delivered personally or by overnight courier, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. A party may at any time, by giving written notice to the other party pursuant to this Section 8(a), designate any other addresses in substitution of the address to which such notice or communication shall be given.

Notices shall be given to the parties at their address set forth below:

City: City of Milpitas
455 E. Calaveras Boulevard
Milpitas, California 95035
Attention: City Manager

Successor Agency: Successor Agency of the Redevelopment Agency
of the City of Milpitas
455 E. Calaveras Boulevard
Milpitas, California 95035
Attention: Executive Director

(b) Non-Liability of Officials. No member, official, employee or agent of the parties shall be personally liable to any other party or any successor in interest, in the event of any default or breach by a party for any amount which may become due to another party or successor or on any obligation under the terms of this Agreement.

(c) Actions of the Parties. Except as otherwise provided in this Agreement, whenever this Agreement calls for or permits a party's approval, consent, or waiver, the written approval, consent, or waiver of the City Manager or the Successor Agency Executive Director shall constitute the approval, consent, or waiver of the respective parties, without further authorization required from the governing board of the party; provided, however, that the person vested with such authority may seek such further advice or authorization from the applicable governing board when he/she deems it appropriate.

(d) Litigation Regarding The Agreement. In the event litigation is initiated attacking the validity of this Agreement, the City and the Successor Agency shall in good faith defend and seek to uphold the Agreement.

(e) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that such counterparts shall together constitute one and the same instrument.

(f) Time is of the Essence. Time is of the essence in the performance of the terms and provisions of this Agreement.

(g) Binding on Successors. This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law.

(h) State Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

(i) Attorneys' Fees. In any action which a party brings to enforce its rights hereunder, the prevailing party shall be entitled to reasonable attorneys' fees.

(j) Additional Acts. The parties each agree to take such other and additional action and execute and deliver such other and additional documents as may be reasonably requested by the other party for purposes of consummating the transactions contemplated in this Agreement.

(k) Entire Agreement; Amendments. This Agreement constitutes the entire and integrated agreement of the parties and supersedes all prior negotiations, representations, or agreements, either written or oral, with respect to the matters addressed in this Agreement. This Agreement may be amended only by written instrument executed by the parties at the time of such amendment.

(l) Indemnity. The City hereby agrees to indemnify, defend, and hold harmless the Successor Agency from and against any and all actions, claims, demands, losses, expenses, including reasonable attorneys' fees and costs, damages, and liabilities arising out of, or in any way connected with the performance of this Agreement. The Successor Agency shall not be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the City under this Agreement. Furthermore, pursuant to Government Code section 895.4, the City shall fully indemnify, defend, and hold harmless the Successor Agency from any liability imposed for injury to persons or property occurring by reason of anything done or omitted to be done by City under or in connection with the work undertaken by the City pursuant to this Agreement.

(m) Default. If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract or to seek specific performance. The rights and remedies of the non-defaulting party enumerated in this paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement.

or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

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

APPROVED AS TO FORM:

CITY OF MILPITAS

City Attorney

By: _____
Thomas C. Williams, City Manager

APPROVED AS TO FORM:

SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY OF THE
CITY OF MILPITAS

Successor Agency Counsel

By: _____
Thomas C. Williams, Successor
Agency Executive Director

EXHIBIT A

EXCESS BOND PROCEEDS

Milpitas Redevelopment Agency Redevelopment Project Area No. 1 Tax Allocation Bonds,
Series 1997 \$524,926

Milpitas Redevelopment Agency Redevelopment Project Area No. 1 2003 Tax Allocation Bonds
\$3,464,952

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.B: APPROVE NEXT STEPS FOR DEVELOPMENT OF LONG RANGE PROPERTY MANAGEMENT PLAN

RECOMMENDED ACTION(S):

Direct Successor Agency staff to work with the Oversight Board’s appointed subcommittee to secure appraisal reports for the five properties identified in the City’s memorandum, and direct Successor Agency staff to work with the County to bring back a Long Range Property Management Plan for presentation to the Oversight Board no later than November 5, 2014.

DISCUSSION:

At its February meeting, the Oversight Board added a \$40,000 line item to ROPS 14-15A to allow for the independent appraisal of properties to be included in the Long Range Property Management Plan (“LRPMP”), and formed a subcommittee to work with Successor Agency staff to solicit the services of an independent appraiser.

Since the Oversight Board’s February meeting, the County, the Department of Finance, the Successor Agency, the City of Milpitas, and the Milpitas Economic Development Corporation settled their lawsuits, and entered into a settlement agreement, as presented and discussed at the Oversight Board’s June meeting. As explained in the attached memorandum prepared by the City Attorney, section 3.d. of the settlement agreement addresses the creation of LRPMP pursuant to Health and Safety Code section 34191.5.

The settlement agreement states that the Successor Agency and the County shall each use best efforts to expeditiously and cooperatively work in good faith to jointly prepare and submit the LRPMP to the Oversight Board no later than ninety (90) business days following the remittance of \$34,828,005.15 to the County Auditor-Controller, and the conveyance of certain property to the Successor Agency.

It is Oversight Board staff’s understanding that the requirements set forth in section 3.d. of the settlement agreement have been satisfied, and that parties should present an LRPMP to the Oversight Board on or about November 5, 2014, in order to meet the ninety business day deadline set forth in the settlement agreement.

The settlement agreement also specifies that the following parcels will be liquidated in a manner that maximizes the financial returns to the affected taxing entities:

APN	Address	Description
028-24-025	86 N. Main Street	Vacant Parcel
086-02-086	Alder Drive and Barber Lane	Vacant Parcel
028-34-001 through 028-34-094	230 N. Main Street	Vacant Parcel

Finally, the settlement agreement specifies that the following parcels will be disposed of as determined by the Oversight Board:

APN	Address	Description
022-08-003	96 N. Main Street	County Health Center Parking Garage
086-10-025	540 S. Abel Street	Cracolice Building

The memo from the City Attorney suggests that the Oversight Board direct its subcommittee to commission appraisal reports for the three vacant parcels listed above, and report back to the Board with that information at its next meeting. Oversight Board counsel agrees that it is important to have this information to allow the Oversight Board to approve a realistic LRPMP.

In addition, based on prior discussion of the Oversight Board regarding Government Use properties, Oversight Board counsel recommends that the Oversight Board also direct its subcommittee to commission an appraisal report for the Cracolice Building. All of the appraisal information should then be presented to the Oversight Board in conjunction with the presentation of the proposed LRPMP at its next meeting. Oversight Board Counsel does not recommend bringing back the appraisal information prior to the development of a draft LRPMP.

The City Attorney has also recommended that the Oversight Board direct the subcommittee to order the preparation of a preliminary title report regarding the Cracolice building. Oversight Board Counsel believes that the County should be able to provide the necessary information without any action by the subcommittee. Only if the County cannot provide the necessary information, should the subcommittee commission such a report.

ATTACHMENT(S):

City Memorandum
Proposed Resolution

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

OVERSIGHT BOARD MEMORANDUM

TO: OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS RDA
FROM: MICHAEL OGAZ, MILPITAS CITY ATTORNEY
SUBJECT: LONG RANGE PROPERTY MANAGEMENT PLAN
DATE: SEPTEMBER 5, 2014
CC: JENNIFER GORE, OVERSIGHT BOARD GENERAL COUNSEL

Having received its Finding of Completion from the State Department of Finance, the Successor Agency is now required to prepare a Long Range Property Management Plan under H&S Section 341951.5. Also, the Successor Agency is required under Section 3d of the Settlement Agreement with the County and DOF to negotiate terms of an acceptable Long Range Property Management Plan (LRPMP) with the County for approval by the Oversight Board. Recent attempts to set up a meeting with County staff to prepare a joint plan have been unsuccessful. However, Milpitas wishes to move forward expeditiously on the plan and seeks Board approval of a few preliminary steps.

The properties that will be subject to a LRPMP are those identified on Schedule 4 and Schedule 5 of the Settlement Agreement. Those Schedules are attached. The three sites identified on Schedule 4 are vacant land. Presuming that sale at fair market value will be a component of the LRPMP for these properties, it seems prudent to have them appraised at this time. This would assist in determining the parameters of a realistic plan. The Board has previously set aside \$40,000 in its budget for purposes of obtaining appraisals. It would be an appropriate first step for the Board to authorize its Subcommittee to move forward to have these properties appraised.

Schedule 5 also describes two properties. One is the Cracolice Building and the other is the County Health Center Parking Garage. It is presumed that an appropriate recommendation regarding the latter will be forthcoming once Milpitas and the County meet. No recommended action regarding that property is proposed at this time. As to the Cracolice Building, there is a question about the existence of a deed restriction or reversionary provision requiring the property to be used only for recreation purposes. An informal request to the County to provide a copy of the original deed from the Cracolice family was unsuccessful. An appropriate LRPMP cannot be created until it is known whether this restriction exists. A preliminary title report with the chain of title documents back to the Cracolice ownership should provide the answer.

RECOMMENDATION:

1. That the Board direct the Subcommittee to commission an appraisal report for the three properties listed on Schedule 4 of the Settlement Agreement and to report back to the Board with that information at the next Board meeting.
2. That the Board direct the Subcommittee to order the preparation of a preliminary title report to determine the existence of a deed restriction regarding the Cracolice Building.

SCHEDULE 4
Section 3(d)(i) Real Property

APN	Address	Description
028-24-025	86 N. Main Street, City of Milpitas	Vacant land
086-02-086	Alder Drive and Barber Lane, City of Milpitas	Vacant land
028-34-001 through 028-34-094	230 N. Main Street, City of Milpitas	Vacant land

SCHEDULE 5
Section 3(d)(ii) Real Property

APN	Address	Description
022-08-003	96 N. Main Street, City of Milpitas	County Health Center Parking Garage
086-10-025	540 S. Abel Street, City of Milpitas	Cracolice Building

RESOLUTION NO. _____

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE FORMER MILPITAS REDEVELOPMENT AGENCY
DIRECTING ITS SUBCOMMITTEE TO WORK WITH SUCCESSOR AGENCY STAFF
TO OBTAIN APPRAISAL REPORTS IN CONJUNCTION WITH THE
DEVELOPMENT OF THE LRPMP**

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 submit a long-range property management plan ("LRPMP") to the Department of Finance for approval no later than six months following the issuance of a finding of completion; and

WHEREAS, the Milpitas Successor Agency received its finding of completion from the Department of Finance on June 27, 2014; and

WHEREAS, the settlement agreement resulting from the litigation between the County of Santa Clara, the County Office of Education, the State of California, the Milpitas Successor Agency, the City of Milpitas, and the Milpitas Economic Development Corporation ("Settlement Agreement") provides that a jointly prepared LRPMP shall be submitted to the Oversight Board no later than ninety (90) business days following the satisfaction of certain requirements in the settlement agreement; and

WHEREAS, at its February 20, 2014, meeting, the Oversight Board added a line item to ROPS 14-15A to pay for property appraisal services and appointed a Subcommittee to work with Successor Agency and City staff to determine a process for property appraisal services.

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

BE IT FURTHER RESOLVED that the Oversight Board directs its Subcommittee to commission appraisals for the three properties to be disposed of, as identified in Schedule 4 of the Settlement Agreement, as well as the Cracolice Building identified in Schedule 5.

BE IT FURTHER RESOLVED that the Successor Agency is directed to present the appraisal information to the Oversight Board in conjunction with the presentation of the proposed LRPMP at the Oversight Board's next meeting.

BE IT FURTHER RESOLVED that the Oversight Board directs is Subcommittee to order the preparation of a preliminary title report regarding the Cracolice building, but only if the County of Santa Clara cannot provide the necessary information.

PASSED AND ADOPTED this _____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump
Oversight Board Secretary

Maribel S. Medina
Oversight Board Chair

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.C: APPROVE SUCCESSOR AGENCY'S ADMINISTRATIVE BUDGET FOR JANUARY 1, 2015, TO JUNE 30, 2015 (FY 14-15B)

RECOMMENDED ACTION(S):

Approve the proposed Administrative Budget for January 1, 2015, to June 30, 2015, which does not exceed the Administrative Cost Allowance allowed under the Dissolution Law.

BACKGROUND:

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."

DISCUSSION:

The Successor Agency staff has prepared the attached Administrative budget of \$128,289. This amount is less than the 3% administrative cap, and is less than the Administrative budget for the same period in 2014, which was \$269,326. The primary savings is found in the reduction in Successor Agency staff costs (\$76,739 vs. \$173,226 in 2014) and reductions in Oversight Board clerk and attorney services (\$3,000/\$20,000 vs. \$11,000/\$55,000 in 2014).

ATTACHMENT(S):

Successor Agency's Proposed Admin Budget
Proposed 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 JANUARY 1
TO JUNE 30, 2015**

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 January 1 to June 30, 2015, in accordance with State law; and

WHEREAS, the administrative budget prepared by the Successor Agency was considered by the Oversight Board;

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

BE IT FURTHER RESOLVED that the Oversight Board adopts the Administrative Budget, in substantially the same form as attached hereto, including separate line items for services from the Oversight Board clerk and legal counsel, representing the Board's intent that amounts unspent for these line items during the FY 14-15B period will be deducted from the administrative cost allowance for the same period.

PASSED AND ADOPTED this ____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump
Oversight Board Secretary

Maribel S. Medina
Oversight Board Chair

**City of Milpitas Successor Agency
ROPS 14-15B Administration Budget
January 2015 to June 2015**

<u>Payee</u>	<u>Description</u>	<u>Proposed Amount</u>
City of Milpitas	Successor Agency Adm Costs - staff	\$ 76,739
ABAG PLAN	Property Insurance	-
Various vendors	Copier lease, printing, storage, office equip	6,250
Maze & Assoc.	Audit Costs	3,000
US Bank	Adm. Fee for debt services	4,300
Wells Fargo Bank	Bank Fee for checking account	3,000
ACS	Arbitrage Calculation	3,000
Willdan Financial	Bond Continued disclosure	3,000
MuniServices	Assessment Appeals report for bond disclosure	1,500
PG&E	Utility Costs	3,000
ABAG POWER	Utility Costs	500
Ctiy of Milpitas	Utility Costs	1,000
County of Santa Clara	Oversight Board clerk	3,000
Miller & Owen	Oversight Board Attorney	<u>20,000</u>
	Total	<u><u>\$ 128,289</u></u>

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.D: CONSIDER REQUESTED REVISION TO THE FINANCING AGREEMENT BETWEEN SUNPOWER INC., AND THE FORMER REDEVELOPMENT AGENCY

RECOMMENDED ACTION(S):

Determine whether to revise the SunPower Corporation Agreement to allow for a \$200,000 payment on January 1, 2015.

DISCUSSION:

At its February 20, 2014, the Milpitas Oversight Board was asked to include a line item on ROPS 14-15A (July 1, 2014 – December 31, 2014) for a \$200,000 payment to SunPower Corporation (SunPower). The County Controller-Treasurer objected to the inclusion of the \$200,000 payment on the ROPS, citing the agreement between SunPower and the former Redevelopment Agency, dated February 1, 2011 (Agreement), which stated that SunPower was eligible to receive annual payments of up to \$200,000, until January 1, 2014, and that the final payment to SunPower was made during ROPS 13-14B. The Controller-Treasurer requested that the ROPS form be revised to reflect a zero balance, and to retire this item. The Controller-Treasurer's letter, dated February 18, 2014, is attached hereto.

The Successor Agency staff and a representative of SunPower requested that the Oversight Board amend the Agreement to correct the date, and allow for a final payment prior to January 1, 2015. Correspondence provided to the Oversight Board at its February meeting, including a letter from the City Attorney, dated February 5, 2014, and email correspondence from SunPower, is attached hereto.

Because the requested amendment of the SunPower Agreement had not been listed as an item on the February meeting agenda, the Board directed legal counsel to research whether the Oversight Board has the power to amend the Agreement, and to work with the Oversight Board Chair to determine whether the item should be included on a future agenda. The Oversight Board also revised ROPS 14-15A to reflect that the amount outstanding for the SunPower line item is in dispute (ranging from \$0 to \$200,000), and that the issue would be considered at a future meeting of the Oversight Board.

In approving ROPS 14-15A, the Department of Finance (DOF) stated that it believes that the Financing Agreement with SunPower Corp. should be retired, and that no repayment is obligated beyond January 1, 2014 (see attached letter dated April 10, 2014).

As requested by the Oversight Board, staff has also attached a memo prepared by the Oversight Board's legal counsel analyzing the Oversight Board's authority to amend the SunPower Corp. Agreement pursuant to Civil Code section 3399.

As stated in the Oversight Board counsel's memo, the Oversight Board's authority to amend an agreement is set forth in Health and Safety Code section 34181, subsection (e), which states:

"The oversight board shall direct the successor agency to do all of the following:

(e) Determine whether any contracts, agreements or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of those agreements if it finds that amendments or early termination would be in the best interests of the taxing entities."

Based on this statute, in order to amend the SunPower Corp. Agreement, the Oversight Board would be required to find that the requested amendment reduces liabilities and increases net revenues to the taxing entities, and the Oversight Board must find that the amendment would be in the best interest of the taxing entities.

On August 22, 2014, the City Attorney also provided a memo (attached hereto), requesting that the SunPower Agreement be reformed to correct the end date for payments to SunPower Corp., to allow for a payment on January 1, 2015. Reformation, however, is a broad equitable remedy available to California courts, and the Oversight Board's powers are more narrowly prescribed under the Dissolution Law to amending contracts pursuant to Health and Safety Code section 34181, subsection (e).

The City Attorney's memo suggests that the amendment of the Agreement is permissible under Health and Safety Code section 34181, subsection (e), because it would reduce the Successor Agency's risk of a lawsuit from a third party, and is therefore in the best interest of the taxing entities. The City Attorney, however, provides no support for the assertion that an amendment is in the best interest of the taxing entities, and has not established that SunPower would prevail in litigation and be entitled to attorneys' fees under California's Private Attorney General statute.

Because the Oversight Board has no power to reform an agreement and cannot make the necessary findings pursuant to Health and Safety Code section 34181, subsection (e), Successor Agency Counsel unfortunately must recommend that the Oversight Board deny the requested revisions to the SunPower Agreement.

ATTACHMENT(S):

Letter from County Controller-Treasurer (dated 2/18/2014)
City Attorney Letter (dated 2/5/14)
Email from SunPower representative (dated 2/20/14)
DOF letter (dated 4/10/14)
OB Counsel's Memo (dated 9/12/14)
City Attorney's Memo (with SunPower Agreement attached)

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

County of Santa Clara

Finance Agency
Controller-Treasurer

County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5206 FAX 287-7629



NOTICE OF OBJECTION TO ROPS

February 18, 2014

City of Milpitas
455 E Calaveras Blvd
Milpitas, CA 95035

City of Milpitas Oversight Board
455 E Calaveras Blvd
Milpitas, CA 95035

Department of Finance
915 L Street
Sacramento, CA 95814

ROPS Period: ROPS 14-15A (July 1, 2014 – December 31, 2014)
Successor Agency: City of Milpitas

To the Successor Agency, Oversight Board, and Department of Finance:

Pursuant to Health and Safety Code section 34182.5, our office has reviewed the Recognized Obligation Payment Schedule (ROPS) submitted by the above-noted successor agency for the above-noted period. After reviewing all items and funding sources, the Santa Clara County Auditor-Controller objects to the following items and/or funding sources on the submitted ROPS:

Item 5 – Financing Agreement for SunPower

The Successor Agency has satisfied the total outstanding obligation. Under the financing agreement, SunPower Corp. was eligible to receive annual payments of up to \$200,000 until January 1, 2014. The Successor Agency made the final \$200,000 payment to SunPower during ROPS period 13-14B. The financing agreement prohibits additional payments from being made. Thus, the ROPS Detail Form for this item should be retired (column "J" of Item 5 should be changed from "N" to "Y") to reflect a zero balance (column "I" should be changed from "\$200,000" to "\$0").

//

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yaeger, S. Joseph Simitian
County Executive: Jeffery V. Smith

Successor Agency: City of Milpitas
Notice of Objection to ROPS 14-15A
February 18, 2014

Items 3, 4, 6, 7 & 8 – Column “J” Correction

These items were retired by the Oversight Board in Resolution No. 28 for ROPS 13-14B, consistent with the County Auditor-Controller’s Objection Letter for ROPS 13-14B. These items in the ROPS Detail Form should be retired (column “J” for Items 3, 4, 6, 7 & 8 should be changed from “N” to “Y”).

In accordance with section 34182.5, if the Oversight Board disputes any of these objections, it may choose to refer such disputed findings to the Department of Finance for final determination.

Please note that items and/or funding sources not questioned during this review are subject to subsequent review if they are included on a future ROPS. We also reserve the right to object to an item and/or funding source (including, but not limited to, the use of fund balance) on a future ROPS, even if no objection was made on a preceding ROPS.

Additionally, pursuant to Health and Safety Code section 34186(a), the County Auditor-Controller may review the prior period payments and the prior period estimated versus actual payments reported on the ROPS. This review is ongoing, and this letter does not apply to the true-up of prior period payments. In addition, my office is continuing its review of the cash balances reported by the successor agency on the ROPS. The results of this review will be transmitted to the Department of Finance as soon as possible.

Sincerely yours,



Irene Lui, C.P.A.
Controller-Treasurer
County of Santa Clara

Attachment: ROPS 14-15A as submitted to the County Auditor-Controller by Successor Agency
Notice of Objection to ROPS 13-14B (without attachment)

Recognized Obligation Payment Schedule (ROPS 14-15A) - Summary

Filed for the July 1, 2014 through December 31, 2014 Period

Name of Successor Agency: Milpitas
Name of County: Santa Clara

Current Period Requested Funding for Outstanding Debt or Obligation	Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding	
A Sources (B+C+D):	\$ -
B Bond Proceeds Funding (ROPS Detail)	-
C Reserve Balance Funding (ROPS Detail)	-
D Other Funding (ROPS Detail)	-
E Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 10,075,543
F Non-Administrative Costs (ROPS Detail)	9,903,804
G Administrative Costs (ROPS Detail)	171,739
H Current Period Enforceable Obligations (A+E):	\$ 10,075,543
Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
I Enforceable Obligations funded with RPTTF (E):	10,075,543
J Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	(78,670)
K Adjusted Current Period RPTTF Requested Funding (I-J)	\$ 9,996,873
County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
L Enforceable Obligations funded with RPTTF (E):	10,075,543
M Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
N Adjusted Current Period RPTTF Requested Funding (L-M)	10,075,543

Certification of Oversight Board Chairman:
Pursuant to Section 34177(m) of the Health and Safety code, I hereby
certify that the above is a true and accurate Recognized Obligation
Payment Schedule for the above named agency.

Emma Karlen	Finance Director
Name	Title
/s/ Emma Karlen	2/4/2014
Signature	Date

Recognized Obligation Payment Schedule (ROPS) 14-15A - Report of Cash Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177(l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.

A	B	C	D	E	F	G	H	I	
		Fund Sources							
		Bond Proceeds		Reserve Balance		Other	RPTTF		
	Cash Balance Information by ROPS Period	Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR balances retained	Prior ROPS RPTTF distributed as reserve for next bond payment	Rent, Grants, Interest, Etc.	Non-Admin and Admin	Comments	
ROPS 13-14A Actuals (07/01/13 - 12/31/13)									
1	Beginning Available Cash Balance (Actual 07/01/13) Note that for the RPTTF, 1 + 2 should tie to columns J and O in the Report of Prior Period Adjustments (PPAs)				67,382	134,321	203,967	Cash was adjusted (increased) by \$134,321 due to market value adjustment at 6/30/13	
2	Revenue/Income (Actual 12/31/13) Note that the RPTTF amounts should tie to the ROPS 13-14A distribution from the County Auditor-Controller during June 2013					4	9,863,695		
3	Expenditures for ROPS 13-14A Enforceable Obligations (Actual 12/31/13) Note that for the RPTTF, 3 + 4 should tie to columns L and Q in the Report of PPAs						9,988,992		
4	Retention of Available Cash Balance (Actual 12/31/13) Note that the RPTTF amount should only include the retention of reserves for debt service approved in ROPS 13-14A								
5	ROPS 13-14A RPTTF Prior Period Adjustment Note that the RPTTF amount should tie to column S in the Report of PPAs.	No entry required						78,670	
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ 67,382	\$ -	\$ 134,325	\$ -		
ROPS 13-14B Estimate (01/01/14 - 06/30/14)									
7	Beginning Available Cash Balance (Actual 01/01/14) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ -	\$ -	\$ 67,382	\$ -	\$ 134,325	\$ 78,670		
8	Revenue/Income (Estimate 06/30/14) Note that the RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014						9,253,054		
9	Expenditures for 13-14B Enforceable Obligations (Estimate 06/30/14)						9,253,130		
10	Retention of Available Cash Balance (Estimate 06/30/14) Note that the RPTTF amounts may include the retention of reserves for debt service approved in ROPS 13-14B								
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ -	\$ -	\$ 67,382	\$ -	\$ 134,325	\$ 78,594		

County of Santa Clara

Finance Agency
Controller-Treasurer



County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5206 FAX 287-7629

NOTICE OF OBJECTION TO ROPS

Tuesday, September 10, 2013

City of Milpitas
455 E Calaveras Blvd
Milpitas, CA 95035

City of Milpitas Oversight Board
455 E Calaveras Blvd
Milpitas, CA 95035

Department of Finance
915 L Street
Sacramento, CA 95814

ROPS Period: January 1, 2014 to June 30, 2014 - ROPS 13-14B

Successor Agency: City of Milpitas

To the Successor Agency, Oversight Board, and Department of Finance:

Pursuant to Health and Safety Code section 34182.5, my office has reviewed the Recognized Obligation Payment Schedule (ROPS) submitted by the above-noted successor agency for the above-noted period. After reviewing all items and funding sources, the Santa Clara County Auditor-Controller objects to the following items and/or funding sources on the submitted ROPS:

<u>Item No.</u>	<u>Project Name /Description</u>	<u>Funding Source:</u>	<u>Reason for Objection:</u>
3, 4	LMIHF Loan - Land Purchase	Non-Admin RPTTF	These items represent intrafund loans from the LMIHF. DOF and the State Controller have determined that these loans were made for unpermitted non-LMIHF purposes and cannot be paid or transferred to the Successor Housing Entity. Therefore, these items must be retired to reflect a "\$0" balance.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

			<p>By letter dated August 31, 2012, the Department of Finance (DOF) denied the transfer of these obligations to the Successor Housing Agency. These items did not meet the definition of housing asset in Health and Safety Code (HSC) section 34176(e) because the items were interfund transfers between the former RDA's LMIHF and the Capital Projects Fund for non-LMIH purposes.</p> <p>By letter dated October 15, 2012, DOF denied this item as an enforceable obligation with reference to the Auditor-Controller's objection letter dated September 25, 2012. Pursuant to HSC section 34178(a), oversight boards and successor agencies may not restore funding to an obligation that was deleted or reduced by DOF unless it reflects decisions made during the meet and confer process or pursuant to a court order.</p>
6	Disposition and Development Agreement - LMI Housing Assistance		<p>Based on our review of the agreement and available supporting documentation, this agreement terminated pursuant to Article 3.6.1 in November 2011. This item must be retired to reflect a "\$0" balance.</p> <p>By letter dated October 15, 2012, DOF denied this item as an enforceable obligation with reference to the Auditor-Controller's objection letter dated September 25, 2012. Pursuant to HSC section 34178(a), oversight boards and successor agencies may not restore funding to an obligation that was deleted or reduced by DOF unless it reflects decisions made during the meet and confer process or pursuant to a court order.</p>
7, 8	Cooperation Agreement - Unfunded pension and medical benefits liability allocated to former RDA employees	Non-Admin RPTTF	<p>These items should be retired and reflect a "\$0" balance.</p> <p>By letter dated October 15, 2012, DOF denied this item as an enforceable obligation with reference to the Auditor-Controller's objection letter dated September 25, 2012.</p>

		<p>Pursuant to HSC section 34178(a), oversight boards and successor agencies may not restore funding to an obligation that was deleted or reduced by DOF unless it reflects decisions made during the meet and confer process or pursuant to a court order.</p> <p>The Auditor-Controller maintains the following objections to these items. First, the suggested obligations do not meet the definition of “enforceable obligation” under HSC section 34171(d). The obligations arise from the Cooperation Agreement entered into between the former RDA and the City of Milpitas dated May 18, 1976. Pursuant to HSC sections 34171(d)(2) and 34178(a), this agreement is void and not an enforceable obligation. Moreover, HSC section 34171(d)(1) only supports payment of pension obligations for <i>agency</i> employees.</p> <p>Second, even assuming the Cooperation Agreement was valid, its terms do not establish an obligation for the RDA to pay for pension or other benefits. Section 2 of the agreement states the RDA shall pay all-inclusive hourly rates for services rendered by City employees. The RDA has no further obligation to fund City employee retirement beyond the rate charged by City and already reimbursed by RDA in prior years. Assuming a balance remained pursuant to the agreement, any outstanding amounts owed are subordinate to all other debts and obligations of the former RDA.</p> <p>Third, even assuming these were considered enforceable obligations, the methodology used to calculate the pension obligations is flawed because it is based on a generic overhead cost allocation of the RDA as applied to all City employees, and not an actuarial report related to any specific personnel who worked on RDA matters. (See</p>
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Successor Agency: City of Milpitas
 Notice of Objection to ROPS 13-14B
 Tuesday, September 10, 2013

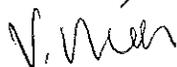
			also page 18 of the Auditor-Controller's Phase 2 Dissolution Audit of the Redevelopment Agency of the City of Milpitas, dated October 10, 2010, previously provided to the Oversight Board and incorporated herein by reference.)
10	Litigation Costs - Litigation costs related to the wind down of RDA	Non-Admin RPTTF	This line is no longer needed and should be retired and reflect a "\$0" balance.

In accordance with section 34182.5, if the Oversight Board disputes any of these objections, it may choose to refer such disputed findings to the Department of Finance for final determination.

Please note that items and/or funding sources not questioned during this review are subject to subsequent review if they are included on a future ROPS. We also reserve the right to object to an item and/or funding source (including, but not limited to, the use of fund balance) on a future ROPS, even if no objection was made on a preceding ROPS.

Additionally, pursuant to Health and Safety Code section 34186(a), the County Auditor-Controller may audit the prior period payments and the prior period estimated versus actual payments reported on the ROPS. This audit is ongoing, and this letter does not apply to the true-up of prior period payments.

Sincerely yours,



Irene
 Irene Lui, C.P.A.
 Controller-Treasurer
 County of Santa Clara

Attachments:

- Department of Finance Letter regarding the Housing Asset Transfer Form
(Aug. 31, 2012)
- Department of Finance Letter regarding Meet-and-Confer for ROPS III
(October 15, 2012)
- ROPS 13-14B as submitted to the County Auditor-Controller by Successor Agency



CITY OF MILPITAS
OFFICE OF THE CITY ATTORNEY

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3040, FAX: 408-586-3056, www.ci.milpitas.ca.gov

February 5, 2014

Mr. Deepak Gupta
SunPower Corporation
Corporate Headquarters
77 Rio Robles
San Jose, CA 95134

RE: Your Email Dated January 23, 2014

Dear Mr. Gupta:

I have reviewed your email message to Emma Karlen and other City employees regarding the Agreement between Sun Power and the former Redevelopment Agency. I would like to explain the City's position.

First, as noted above, the City is not a party to the Agreement. It is between SunPower and the former Redevelopment Agency of Milpitas. That entity was dissolved by the State Legislature and replaced by the Milpitas Successor Agency. Expenditures by the Successor Agency, under the legislature's new rules, are subject to approval by the Milpitas Oversight Board and the California Department of Finance. In the past, when the Successor Agency attempted to seek approval to pay SunPower for two consecutive calendar years at one time, the Oversight Board refused to allow two yearly payments in one year-- contending it was contrary to the terms of the contract.

At this time, the Successor Agency has submitted a request to the Oversight Board to make a payment to Sun Power in the amount of \$200,000 due as of January 1, 2014. Because of its former rulings, we believe this is the total amount that might be approved for payment. However, we do acknowledge that the intent of the agreement was to make an additional \$200,000 payment if SunPower complies with the employment goals set forth in the agreement for four consecutive years. To make the final payment, the Successor Agency is willing to submit for Oversight Board approval, a request for payment next year payable on January 1, 2015. There is no guarantee that the Oversight Board will approve that payment request.

We realize from your email message that Sun Power takes the position that the entire \$400,000 is currently due and payable. Unfortunately, the past practice of the Oversight Board indicates this total amount will not be approved. Without such approval, the Successor Agency cannot make the payment to Sun Power as the Agency has no funds directly under its control.

Be further advised that we have still not yet received certification of compliance with the employment goals required under the agreement for calendar year 2013. Assuming the Oversight Board approves the \$200,000 payment request for last year, the Successor Agency will not make the payment to Sun Power until it receives proof of compliance.

Thank you very much for your correspondence. If you wish to discuss this matter further, please contact me at your convenience.

Very truly yours,


MICHAEL J. OGAZ
City Attorney

cc: Emma Karlen, Director of Finance
Tom Williams, City Manager

Mike Ogaz

From: Deepak Gupta [Deepak.Gupta@sunpower.com]
Sent: Thursday, February 20, 2014 2:16 PM
To: Tom Williams; Mike Ogaz
Cc: Christopher Jaap
Subject: RE: County Auditor-Controller review of the City Milpitas Successor Agency ROPS14-15A

Dear Tom, Dear Mike,

We disagree with the response of the controller-treasure of the Santa Clara County. SunPower's position on this is as follows:

We understand that as part of 2011 budget act Governor Brown dissolved the states' Redevelopment Agencies, however, SunPower & City of Milpitas started working on setting up the manufacturing facility and this agreement in 2010.

Even though the signing of this agreement was delayed till Feb 2011, we believe that section 2.1 of the agreement was not updated to reflect the change of schedule. We understand this is a drafting error, and the intention of both the parties was to have an agreement for period of four years.

SunPower remains entitled to the full remaining amount of \$400,000 and we plan to appeal, if need be.

SunPower has been committed to city of Milpitas and we have met all the employment goals and obligations.

This plant has received lot of attention in media & press and we have hosted many dignitaries both national and international, including multiple senators and Ex. Energy Secretary Mr. Chu & Governor Brown.

We have helped to bring back manufacturing jobs to California. This plant has been on the forefront of solar technology & uses SunPower's best in class module mfg. technology to manufacture world's most efficient solar panels.

We appreciate City's support in this matter and look forward to a favorable resolution.

Thanks,
 Deepak Gupta
 Sr. Manager Operations
 SunPower Corp
 408-457-2657(O): 408-759-0142(M)

From: Tom Williams [mailto:twilliams@ci.milpitas.ca.gov]
Sent: Wednesday, February 19, 2014 3:17 PM
To: Deepak Gupta
Subject: FW: County Auditor-Controller review of the City Milpitas Successor Agency ROPS14-15A

Deepak:

Attached is the letter from the County of Santa Clara objecting to the \$200,000 payment to SunPower. I recommend that a representative from SunPower attend the meeting tomorrow afternoon at 4pm in the conference room on the 1st floor of City Hall to object to the County recommendation.

Thomas C. Williams

2/20/2014

City Manager
City of Milpitas
(408) 586.3050



From: Jennifer Gore [<mailto:Gore@motlaw.com>]
Sent: Wednesday, February 19, 2014 9:00 AM
To: Jennifer Gore
Subject: FW: County Auditor-Controller review of the City Milpitas Successor Agency ROPS14-15A

Dear Members of the Milpitas Oversight Board:

Below, please find an email from the Santa Clara County Controller-Treasurer's Office transmitting a letter regarding the proposed ROPS 14-15A for the City of Milpitas Successor Agency.

We will be able to discuss this letter during our meeting tomorrow. I look forward to seeing you then.

Sincerely,
Jennifer

MILLER & OWEN
A Professional Corporation

Jennifer V. Gore

Phone: (916) 447-7933
Fax: (916) 447-5195

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

From: Niebla, Veronica [<mailto:Veronica.Niebla@fin.sccgov.org>]
Sent: Tuesday, February 18, 2014 6:37 PM
To: Jennifer Gore; barb.crump@gmail.com
Cc: EKarlen@ci.milpitas.ca.gov; Jane Corpus; rdaresponse
Subject: County Auditor-Controller review of the City Milpitas Successor Agency ROPS14-15A

Attached is the Santa Clara County Controller-Treasurer's Office review of ROPS 14-15A for the City of Milpitas Successor Agency. This letter will also be posted at <http://www.sccgov.org/sites/fin/Controller-Treasurer%20Department/ABx126implementation/Pages/default.aspx> within 24 hours. Please note this review does not include our completed review of the true-up of prior period payments.

We request you please forward this email to the Oversight Board members.

Thank you,

2/20/2014

Veronica Niebla
Division Manager
Controller-Treasurer's Department
70 W Hedding Street, East Wing, 2nd Floor
San Jose, CA 95110
408-299-5209
F: 408-289-8629
veronica.niebla@fin.sccgov.org



April 10, 2014

Ms. Emma Karlen, Director of Financial Services
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Dear Ms. Karlen:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Milpitas Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 14-15A) to the California Department of Finance (Finance) on February 28, 2014 for the period of July through December 2014. Finance has completed its review of your ROPS 14-15A, which may have included obtaining clarification for various items.

Based on our review, we are approving all of the items listed on your ROPS 14-15A at this time.

However, during our review, which may have included obtaining financial records, Finance determined the Agency possesses funds that should be used prior to requesting Redevelopment Property Tax Trust Funds (RPTTF). Pursuant to HSC section 34177 (l) (1) (E), RPTTF may be used as a funding source, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. The Agency provided financial records that displayed available Other Funds on-hand in the amount of \$134,245.

Therefore, the funding source for the following item has been reclassified to Other Funds in the amount specified below:

Item No. 1 – 2003 Tax Allocation Bonds in the amount of \$ 9,903,804. The Agency requests \$ 9,903,804 of non-admin RPTTF; however, Finance is reclassifying \$134,245 to Other Funds. Therefore, Finance is approving non-admin RPTTF in the amount of \$9,769,559 and the use of Other Funds in the amount of \$134,245, totaling \$ 9,903,804.

In addition, Finance believes Item No. 5, Financing Agreement with SunPower Corporation, should be retired. Finance notes the Oversight Board's (OB) decision to postpone retirement in order to further vet the disputed amount outstanding pursuant to OB Resolution No. 33-2014. However, it is our understanding no repayments is obligated beyond January 1, 2014.

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2013 period. The amount of Redevelopment

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS 14-15A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2013 period. HSC section 34186 (a) also specifies prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. The amount of RPTTF approved in the table below includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Except for the item that has been reclassified, Finance is not objecting to the remaining items listed on your ROPS 14-15A. If you disagree with the determination with respect to any items on your ROPS 14-15A, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/meet_and_confer/

The Agency's maximum approved RPTTF distribution for the reporting period is \$9,902,628 as summarized below:

Approved RPTTF Distribution	
For the period of July through December 2014	
Total RPTTF requested for non-administrative obligations	9,943,804
Total RPTTF requested for administrative obligations	171,739
Total RPTTF requested for obligations	\$ 10,115,543
Total RPTTF requested for non-administrative obligations	9,943,804
<u>Cash Balances - Item reclassified to Other Funds</u>	
Item No. 1	(134,245)
Total RPTTF authorized for non-administrative obligations	\$ 9,809,559
Total RPTTF requested for administrative obligations	171,739
Total RPTTF authorized for administrative obligations	\$ 171,739
Total RPTTF authorized for obligations	\$ 9,981,298
ROPS 13-14A prior period adjustment	(78,670)
Total RPTTF approved for distribution	\$ 9,902,628

Please refer to the ROPS 14-15A schedule that was used to calculate the approved RPTTF amount:

<http://www.dof.ca.gov/redevelopment/ROPS>

Absent a Meet and Confer, this is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2014. This determination only applies to items where funding was requested for the six-month period. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of items that have received a

Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to HSC section 34171 (d), HSC section 34191.4 (c) (2) (B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Wendy Griffe, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Jane Corpus Takahashi, Finance Manager, City of Milpitas
Ms. Irene Lui, Controller Treasurer, Santa Clara County
California State Controller's Office

MILLER & OWEN

A PROFESSIONAL CORPORATION

PAUL J. CHRISMAN
JENNIFER V. GORE
MAILA A. LABADIE
CHRISTIANE E. LAYTON
MADELINE E. MILLER
NANCY C. MILLER

ATTORNEYS AT LAW
428 J STREET, SUITE 400
SACRAMENTO, CALIFORNIA 95814-2394
WWW.MOTLAW.COM
(916) 447-7933

WILLIAM L. OWEN, Ret.

MEMORANDUM

TO: Milpitas Oversight Board

FROM: Jennifer Gore
Legal Counsel to Milpitas Oversight Board

DATE: September 10, 2014

RE: *SunPower Corporation Agreement*

QUESTION PRESENTED

Does the Oversight Board have the power to amend the agreement between SunPower Corporation and the former Redevelopment Agency, dated February 1, 2011 (“Agreement”) to allow for a payment of \$200,000 under ROPS 14-15B, as requested by the City Attorney for the City of Milpitas.

SHORT ANSWER

The Oversight Board cannot approve the requested amendment to extend the time for payment, because the amendment: (1) will not reduce the liabilities and increase net revenues to the taxing entities, and (2) is not in the best interests of the taxing entities, as required by Health and Safety Code section 34181, subsection (e).

BACKGROUND

On April 20, 2010, the former Milpitas Redevelopment Agency (“former RDA”) approved a \$1.5 million loan to SunPower Corporation (“SunPower”). A formal financing agreement outlining the terms of the financing to be provided to SunPower was signed on February 1, 2011 (“Agreement”).

The \$1.5 million reimbursement for equipment, including an “Initial Installment” of up to \$700,000 to reimburse SunPower for its acquisition of Eligible Equipment, plus “Additional Equipment Assistance” to reimburse SunPower “for *up to* an additional Eight Hundred Thousand Dollars (\$800,000) over a four (4) year period” [emphasis added]. On June 29, 2012, SunPower received its Initial Installment of \$700,000. The current dispute is related to whether SunPower is entitled to a final payment of \$200,000 for Additional Equipment Assistance under the Agreement.

SunPower’s right to receive these payments was subject to the following conditions: (1) “If starting on January 1, 2011, SunPower hires or continues to employ 80 or more new employees for the manufacture of SunPower solar panels and continues solar panel

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SunPower Corporation

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manufacturing activities at the Enterprise Site”; (2) the “existence of eligible, unreimbursed capital equipment and facilities improvement costs”; and (3) the delivery of documentation demonstrating the continued employment of at least 80 new workers within the Redevelopment Project Area No. 1. If these conditions were met, SunPower was entitled to the additional sum of “up to” \$200,000 each year by the first of January.

Section 2.1 of the Agreement goes on to state that SunPower’s “eligibility for Additional Equipment Reimbursements shall cease on January 1, 2014.”

On October 11, 2012, the Milpitas Oversight Board received the Agreed Upon Procedures Report prepared by the County of Santa Clara’s Finance Agency (“AUP”). The AUP established the assets, liabilities, and other indebtedness of the former RDA, and made specific findings related to the SunPower Agreement. Specifically, the AUP stated that “SunPower could never receive \$200,000 for one of the four contract years” based on the express terms of the Agreement.

SunPower received its first installment of “Additional Equipment Assistance” on October 28, 2012, and its second installment on March 18, 2013. On September 12, 2013, the Oversight Board approved ROPS 13-14B (January 1, 2014-June 30, 2014), approving a third payment of \$200,000. ROPS 13-14B also listed the total outstanding obligation to SunPower as only \$200,000.

Despite the findings of the AUP and the payment pursuant to ROPS 13-14B which satisfied the total outstanding obligation of \$200,000 listed on ROPS 13-14B, the Successor Agency included an additional payment of \$200,000 on ROPS 14-15A, which was presented to the Oversight Board for approval on February 20, 2014. At that time, the Successor Agency requested that the Oversight Board amend the SunPower Agreement to allow for a final payment of \$200,000 prior to January 1, 2015. Because the requested amendment of the SunPower Agreement was not listed on the February meeting agenda, the Oversight Board could not properly consider the City Attorney’s request. The Oversight Board did revise ROPS 14-15A to reflect that there is a dispute regarding whether any amount is still owed to SunPower (ranging from \$0 to \$200,000), and that the issue would be considered at a future meeting of the Oversight Board.

The City Attorney has submitted a memo to the Oversight Board requesting that the Oversight Board reform the terms of the contract between the former RDA and SunPower to correct the end date for Additional Equipment Assistance payments. Pointing to California Civil Code, section 3399 for the power to reform a contract, the City Attorney argues that the Agreement contained a clerical error, which constituted a mutual mistake of the former RDA and SunPower, but that both parties shared a single intention – that the \$200,000 payments be made for four years. The City Attorney asserts that the Agreement failed to express this mutual intent because there was a 10 month delay in signing the Agreement. To support the argument that the intent of the parties was to make four \$200,000 payments over four years, the City Attorney cites a letter from the City Attorney to SunPower dated January 23, 2014, and an e-mail from

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SunPower, dated February 12, 2014. None of the evidence provided to demonstrate the parties' intent is contemporaneous with the execution of the Agreement in February 2011.

The City Attorney also suggests that the Oversight Board has the authority to reform the Agreement under Health and Safety Code section 34181, subsection (e), because it would reduce the Successor Agency's risk of a lawsuit from a third party, and is therefore in the best interest of the taxing entities.

ANALYSIS

Civil Code section 3399 does provide that a contract may be revised when, through a mutual mistake of the parties, the mutual intent of the parties is not expressed. However, neither SunPower nor the City Attorney has provided any clear and convincing evidence of the former RDA's intent at the time the Agreement was executed. (See *Bionghi v. Metropolitan Water District of So. Calif.* (1999) 70 Cal.App.4th 1358, 1367 [explaining that the plaintiff could not rely on statements by an MWD employee as evidence of intent because the employee did not negotiate or sign the contract, and was not in a position at the time of contracting to express the agency's intent or the meaning it ascribed to words"].)

The only purported evidence of the former RDA's intent submitted is a letter from the City Attorney, dated February 5, 2014, stating that the "intent of the agreement was to make an additional \$200,000 payment if SunPower complies with the employment goals set forth in the agreement for four consecutive years." It does not appear that this matter was taken to the Successor Agency or City Council prior to the issuance of the February 5, 2014, letter, to allow either body to confirm the intent behind the Agreement in 2011 when it was executed.

At the time the agreement was signed, SunPower had already missed its first Additional Equipment Assistance payment, which was due January 1, 2011, under the terms of the Agreement as it was drafted by the parties. This was brought to the attention of the Successor Agency in the AUP, but no action was taken to correct the Agreement at that time. SunPower continued to perform under the contract and collect three payments. No request for an amendment was made until after SunPower's eligibility to receive Additional Equipment Assistance payments lapsed.

As recognized by the City Attorney, in order to reform an agreement, the party seeking relief bears the burden to demonstrate that the true intent of the agreement was something other than what is reflected in the instrument, and must prove it by clear and convincing evidence. (*Shupe v. Nelson* (1967) 254 Cal.App.2d, 693, 700.) In this instance, neither SunPower nor the City/Successor Agency have met this burden, as explained above.

Furthermore, the City Attorney has asked the Oversight Board to apply Civil Code section 3399, which sets forth an equitable remedy available to a court, and allows a court to reform a contract to express the original, mutual intent of the parties. (*Paterson v. Board of Trustees of Montecito Union School Dist* (1958) 157 Cal.App.2d. 811, 817 [acknowledging that "a court of equity may revise a written instrument to make it conform to the real agreement"].)

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As stated above, neither party has provided sufficient evidence of the former RDA's intent at the time the Agreement was signed; but even if a party had provided such evidence, the Oversight Board is not vested with the same broad authority vested in a court to provide equitable remedies. (See *Id.* [explaining that an administrative agency created by statute is vested only with the powers expressly conferred by the Legislature and cannot exceed the powers granted to them].) The Oversight Board has only the limited powers conferred upon it by statute. One of these powers is to amend a contract – a power narrowly prescribed in Health and Safety Code section 34181, subsection (e), which states:

“The oversight board shall direct the successor agency to do all of the following:

(e) Determine whether any contracts, agreements or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of those agreements if it finds that amendments or early termination would be in the best interests of the taxing entities.”

(Health & Saf. Code, § 34181, sub. (e).)

Based on this statute, before it can revise the SunPower Agreement, the Oversight Board must find: (1) that the requested amendment reduces liabilities and increases net revenues to the taxing entities, and (2) that the amendment would be in the best interest of the taxing entities. Because the proposed amendment of the Agreement will not reduce liabilities and increase net revenues to the taxing entities, and is not in the best interest of the taxing entities, the Oversight Board should deny the requested amendment.

The City Attorney has suggested that the reformation of the Agreement *is* permissible under section 34181, subsection (e) because it would reduce the taxing entities liabilities by reducing the Successor Agency's risk of a lawsuit from a third party, and that it is therefore in the best interest of the taxing entities. In making this assertion, however, the City Attorney has made two incorrect assumptions: (1) that SunPower would prevail in litigation; and (2) that SunPower would be entitled to receive reimbursement of its attorneys' fees under California's Private Attorney General Statute. The City Attorney provides no support for the assertion that an amendment is in the best interest of the taxing entities, and has not established that SunPower would prevail in litigation and be entitled to attorneys' fees.

CONCLUSION

Because the Oversight Board has no power to reform the Agreement, and cannot make the necessary findings set forth in Health and Safety Code section 34181, subsection (e), to support the amendment of the Agreement, Oversight Board's counsel must recommend that the Oversight Board deny the request to reform the contract to allow for an additional payment of \$200,000 to SunPower on January 1, 2015.

MEMORANDUM

Office of the City Attorney



Date: September 12, 2014
To: Oversight Board General Counsel, Jennifer Gore
From: Michael Ogaz, City Attorney
Subject: Contract with SunPower

BACKGROUND

On April 20, 2010, the Milpitas City Council approved a \$1.5 million loan from the former Milpitas Redevelopment Agency (currently the Milpitas Successor Agency) (the “Agency”) to SunPower Corporation (“SunPower”), regarding the purchase, installation and operation of solar panel equipments. At the time of approval, the Agency and SunPower had concluded negotiations and drafted a contract outlining conditions for the loan.

Nevertheless, the parties did not sign a formal contract for this financing plan until 10 months later. On February 1, 2011, the Agency entered into a Financing Agreement (the “Agreement”) with SunPower. Under this contract, the parties agree that the Agency will reimburse SunPower for \$700,000 to acquire eligible solar panel equipments and for an additional \$200,000 for four consecutive years if SunPower complies with employment goals set forth in the Agreement. The parties, however, neglected to change the dates in the contract draft when the Agreement was signed. The present clerical error in the Agreement reads that the \$200,000 payment period would begin on January 1, 2011, continue for four years, and end on “January 1, 2014”.

Expenditures by the Agency are subject to approval by the California Department of Finance and the Milpitas Oversight Board (“Oversight Board”). When the Agency attempted to seek approval to pay SunPower \$200,000 for the next fiscal year by January 1, 2015, the Oversight Board refused to allow this payment. The Board stated that such payment would contradict the terms of the contract because the installment payments should have ended on January 1, 2014.

QUESTION PRESENTED

Should the Oversight Board reform the terms of the contract between the Agency and SunPower to conform to the intent of the parties, when it is clear the intent is defeated by a clerical error in the Agreement?

SHORT ANSWER

Yes. Under California Civil Code section 3399, a mutual mistake and a written instrument that does not truly express the parties’ intent are sufficient grounds for reformation. The incorrect end date would be a mutual mistake that defeats the parties’ true intention. Therefore, the Oversight Board should allow reformation of the terms of the contract in accordance with the Agency and SunPower’s intent.

ANALYSIS

I. Legal Authority on Contract Reformation

Under California Civil Code section 3399, a party aggrieved¹ in a contract may seek reformation by reasons of mistake if the contract: 1) does not reflect the parties' intention due to the mistake and 2) the error is a mutual mistake of both parties, or a mistake known to one party and suspected by the other.² In seeking reformation, the aggrieved party bears the burden to demonstrate that the true intent of the agreement was something other than what is reflected in the instrument.³ The parties must entertain a single intention as supported by the facts.⁴ Extrinsic evidence is admissible to show that the mistake in the written instrument does not express the intention of the parties, and therefore does not contain the real contract.

Clerical mistakes, such as scrivener's errors or mathematical miscalculation, may constitute grounds for reformation. In particular, case law suggests that if the parties have reached a mutual understanding regarding the terms of the contract but incorrectly recorded those terms in a written instrument, that contractual instrument would fail to express the parties' intention. In that case, reformation would be an appropriate remedy. For example, an insurance company was entitled to reformation to correct a clerical error in an insurance contract with a customer because the company's insurance rate book and prior transactional circumstances showed that the parties' intention was defeated by the clerical error.⁵ On the other hand, courts have declined to reform contracts with incorrectly recorded bid amounts because there was no evidence of the parties' mutual understanding of a definite price other than the one set forth in the contract.⁶ While clerical errors may be conveniently identified, courts have emphasized that the party seeking reformation must show there was a single, shared intention between the contracting parties.

II. Application to the Agreement with SunPower

In the instant case, the Agreement may be reformed only if the incorrect date was a mutual mistake or a unilateral mistake that was suspected by the unknowing party, and if the Agreement does not reflect the common intent of the parties. In this case, the grounds for reformation would be easily met.

Firstly, both the Agency and SunPower are aware that the Agreement incorrectly stated the payment period was to extend from January 2011 through January 2014. The clerical error in the Agreement thus constituted a mutual mistake.

Second, both parties shared a single intention—that the \$200,000 payments were to be made for four years—and the Agreement failed to express this intention. The fact that the Agreement was not signed until 10 months after the parties concluded negotiations and drafting shows that the delay in signing led to an inadvertent error contrary to the parties' common

¹ An aggrieved party is one who has suffered prejudice or pecuniary loss. *Watson v. Collins* (1962) 21 Cal. App. 2d 27.

² California Civil Code §3399.

³ *Shupe, supra*, 254 Cal.App.2d at 700.

⁴ *Jolley v. Chase Home Finance, LLC* (App. 1 Dist. 2013) 213 Cal.App.4th 872; *Shupe v. Nelson* (1967) 254 Cal. App. 2d 693, 699; *Schaefer v. California-Western States Life Ins. Co.* (1968) 262 Cal. App. 2d 840, 846.

⁵ *Schaefer, supra*, 262 Cal. App. 2d at 846.

⁶ *Lemoge Electric v. County of San Mateo* (1956) 46 Cal.2d 659, 663-64; *Paterson v. Board of Trustees* (1958) 157 Cal. App. 2d 811, 817.

understanding. In a letter to SunPower on behalf of the Agency, dated January 23, 2014, the City of Milpitas expressed that the intent of the Agreement was to pay SunPower \$200,000 for four years if it complies with the Agreement's employment requirements. The letter also stated that the Agency is willing to request for the final payment of \$200,000 to be made on January 1, 2015.

Subsequently, in an email communication to the Agency dated February 12, 2014, SunPower described the mutual acknowledgement that ". . . [the Agreement], dated as of February 1, 2011, limits payments to no more than \$200,000 per year during the four year term of the Agreement." SunPower then proceeded to state that the Agency has proposed to pay the third \$200,000 installment in February 2014, and the final installment by January 1, 2015. Evidently, therefore, the Agreement does not reflect the parties' intent to make payments for four consecutive years.

Unlike *Lemoge Electric*, where the court found no evidence that the parties agreed on a price that was incorrectly reflected in the contract, here the Agency and SunPower harbored a mutual understanding that was erroneously recorded in the Agreement. Based on the language of the Agreement and the communication between the parties, it is evident that the Agency and SunPower intended for the \$200,000 payments to be made for a period of four years, between 2011 and 2015.

CONCLUSION

It is clear from the documents and comments from the City and the Sun Power representative who appeared and spoke at the last Oversight Board meeting that the incorrect end date was mutual clerical error, and the contract no longer reflected the parties' true agreement. In that case, the Oversight Board would have ample grounds under Civil Code §3399 to reform the Agreement and effectuate the intent of both parties. In addition, notions of fairness and equity support such action. Sun Power, having performed acts of hiring and retention of manufacturing employees to the benefit of the community, should be given the benefit of its bargain by reformation of the Contract and allowance of the final payment of \$200,000 on the ROPS. Health and Safety Code Section 34181(e) allows for such contract reformation so long as it is calculated to "reduce liabilities" to the taxing entities. Since reformation is supported by law under these facts, reformation in a manner consistent with the law reduces liability risk of a lawsuit from the third party (Sun Power) and is therefore in the taxing entities best interests. Perhaps of greater importance, it is the right thing to do. The dissolution of Redevelopment was never intended to harm third parties.

**FINANCING AGREEMENT FOR THE DEVELOPMENT OR REHABILITATION OF
PROPERTY IN MILPITAS, CALIFORNIA FOR SPECIFIED SOLAR PANEL
MANUFACTURING PURPOSES.**

This Financing Agreement for the Development or Rehabilitation of Property in Milpitas, California for Specified Solar Manufacturing Purposes ("Agreement") is entered into as of this 1st day of FEBRUARY 2011, 2010, by and between The Redevelopment Agency Of The City Of Milpitas ("Agency"), and SunPower Corporation (SunPower").

RECITALS

A. SunPower wishes to contract with Flextronics Americas to receive shipments of specialized manufacturing equipment and to install and operate such equipment in a 40,000 square foot Flextronics America industrial building located in Milpitas, California, for the purpose of producing SunPower solar panels for an initial term of sixty (60) months (such efforts collectively referred to herein as the "Enterprise"). The installation and manufacturing work and necessary administrative, shipping, and other support service and activity centers are entirely within the City of Milpitas and include facilities within City of Milpitas Redevelopment Project Area No. 1 (such areas referred to herein as the "Enterprise Site").

B. Pursuant to Health & Safety Code Section 33444.6, the Agency wishes to assist with the financing of such facilities and capital equipment improvements and operations as part of an effort to provide for the development or rehabilitation of the Enterprise Site.

C. The provision of such financial assistance would further the goals of the City of Milpitas Redevelopment Project Area No. 1 Redevelopment Plan, create new jobs, retain existing jobs and facilitate the hiring of Milpitas residents.

D. After considering the matter at its April 20, 2010 Agency Board meeting, the Agency finds that the provision of Agency financial assistance is necessary for the economic feasibility of the project and that the assistance cannot be obtained on economically feasible terms in the private market, given the extensive initial capital costs to set up local manufacturing and the intense global competition in the solar industry.

E. Subject to the terms and conditions set forth in this Agreement, the Agency desires to reimburse SunPower for the acquisition and installation of capital equipment without obligation to repay the Agency, provided however that SunPower shall be required to repay portions of Agency assistance in the event that SunPower ceases its relationship with Flextronics for the production of solar panels at the Enterprise Site or otherwise fails to perform its obligations under this Agreement before January 1, 2014.

NOW, THEREFORE, the Agency and SunPower hereby agree as follows:

1. Acquisition of Equipment. SunPower intends to acquire certain equipment for the installation and use by Flextronics at the Enterprise Site ("Eligible Equipment"). The Eligible Equipment is further described in Exhibit A. Upon acquisition and installation of the Eligible Equipment and the use of related Flextronics support services and activities from the Enterprise Site, SunPower shall submit to the Agency invoices or receipts for the Eligible Equipment, together with evidence satisfactory to the Agency that SunPower has paid for such equipment and such equipment has been delivered to the Enterprise Site for use by Flextronics ("Evidence of Acquisition").

2. Reimbursement of Eligible Equipment. Upon receipt of Evidence of Acquisition and documentation demonstrating the hiring and continued employment of 80 or more new employees ("Notice of Employment Goal") at the Enterprise Site for the manufacturing of SunPower solar panels, the Agency shall reimburse SunPower up to Seven Hundred Thousand Dollars (\$700,000) towards its acquisition of the Eligible Equipment (this amount shall be referred to herein as the "Initial Installment"). Upon receipt of the Evidence of Acquisition, the Agency will inspect and confirm that the Eligible Equipment has been installed.

2.1. Additional Equipment Assistance. If, starting on January 1, 2011, SunPower hires or continues to employ 80 or more new employees for the manufacture of SunPower solar panels and continues solar panel manufacturing activities at the Enterprise Site, Agency agrees to reimburse SunPower for up to an additional Eight Hundred Thousand Dollars (\$800,000) over a four (4) year period, ending on January 1, 2014, towards the cost of Eligible Equipment ("Additional Equipment Assistance"). Such assistance may be issued by the Agency in increments up to Two Hundred Thousand Dollars (\$200,000) per year over a period of Four (4) Years, contingent upon SunPower satisfying its continued manufacturing and employment obligations in each given year and the existence of eligible, unreimbursed capital equipment and facilities improvements costs. In order to receive Additional Equipment Assistance payments in any given year, SunPower shall deliver by December 1 of the preceding year (1) a Notice of Employment Goal indicating that it continues to maintain employment of at least 80 new workers at the Enterprise Site and (2) a written accounting indicating the existence of remaining costs for the acquisition and installation of equipment and/or the improvement of facilities at the Enterprise Site which have not been reimbursed by the Agency. Upon confirmation of such documentation, the Agency shall reimburse SunPower the additional sum of up to Two Hundred Thousand Dollars (\$200,000) each year by the first of January. Notwithstanding the above, in no event shall the Additional Equipment Assistance exceed the amount paid by SunPower to acquire the Eligible Equipment and shall not exceed Two Hundred Thousand Dollars (\$200,000) in any given year. Furthermore, SunPower eligibility for Additional Equipment Reimbursements shall cease on January 1, 2014. Henceforth in this Agreement, the Initial Installment and the Additional Equipment Assistance shall be referred to collectively herein as "Equipment Assistance." All Equipment Assistance shall be

subject to the limitations of this Agreement, including those set forth in Section 13, which shall continue even after the termination of this Agreement.

2.2 Local Hiring. SunPower shall conduct local outreach and job advertising to encourage the submission of job applications by and the employment of Milpitas residents. Such efforts shall be coordinated with the City of Milpitas.

3. Inspection and Approval. Prior to the disbursement of any installment of Equipment Assistance, Agency, Flextronics and SunPower representatives shall inspect the Enterprise Site to confirm that the Eligible Equipment has been installed and is being used at the Enterprise Site.

4. Security Interest in Eligible Equipment. As security for its obligation hereunder, SunPower shall grant to the Agency a security interest in the Eligible Equipment. Concurrently with delivery of the Evidence of Acquisition, SunPower shall execute a security agreement in substantially the form attached hereto as Exhibit B (the "Security Agreement") and shall execute and file a UCC-1 to perfect the Agency's security interest in the Eligible Equipment. The Agency's security interest in the Eligible Equipment shall be senior to any other lender or financing.

5. Amendments. This Agreement may be amended, changed or modified only by an instrument in writing signed by the Agency and SunPower.

6. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the subject matter of this Agreement. Any oral representations or modifications concerning the subject matter of this Agreement shall be of no force and effect.

7. Non-Discrimination. SunPower covenants and agrees for itself, its successors, its assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Enterprise Site, nor shall SunPower itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Enterprise Site.

8. Waiver. Any waiver by the Agency of any term, condition or requirement of this Agreement shall not constitute a waiver of any other term, condition or requirement hereof or constitute a waiver of the same term, condition or requirement in any other instance.

9. Notices. Any notice or demand which shall be required or permitted by law or any provisions of this Agreement shall be in writing, and shall be deemed effective

when personally delivered or deposited in the United States mail, certified, return receipt requested, postage prepaid, addressed as follows:

To Agency: Redevelopment Agency of Milpitas
 Attention: Executive Director
 455 East Calaveras Boulevard
 Milpitas, CA 95035

 SunPower Corporation
 Attention: Jim Parker, Tax Director
 3939 North First Street
 San Jose, CA 95134

or to such other address as any party may designate by notice in accordance with this Section.

A copy of any notice of a legal nature, including, but not limited to any claims against Agency or SunPower, or their respective officers or employees, shall also be served in the manner specified above to the following addressees:

 Redevelopment Agency of the City of Milpitas
 Michael Ogaz, General Counsel
 455 East Calaveras Boulevard
 Milpitas, CA 95035

Notice shall be deemed given on the date of personal delivery by hand, or the date of receipt of facsimile transmission (with verification receipt), or on the date delivery is refused, if applicable.

10. Time. Time is of the essence in this Agreement.
11. Hold Harmless. SunPower shall indemnify, defend and hold the Agency and the City of Milpitas, their officers and employees harmless from all suits, actions, claims, causes of action, costs, demands, judgments or liens arising out of SunPower's activity in the Enterprise Site, or arising out of any acts or omissions of SunPower or its contractors, subcontractors, or persons claiming under any of the aforesaid.
12. Successors and Assigns. Each of the parties to this Agreement binds itself and its successors, assigns, administrators, and trustees with respect to all covenants, agreements, and obligations contained in this Agreement.
13. Assignment; Reimbursement Obligation; SunPower Repayment Obligations. The Agency has agreed to provide the Equipment Assistance hereunder to finance facilities and capital equipment improvements and operations as part of an effort to provide for the development or rehabilitation of the Enterprise Site. Nothing in this Agreement shall prevent SunPower from (i) assigning this Agreement ("Assignment");

provided that the assignee under any such Assignment shall agree to be bound by this Agreement as SunPower's successor-in-interest, or (ii) entering into any transaction to sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of ("Transfer") all or substantially all of the Eligible Equipment in the ordinary course of business or in connection with an Assignment ("Permitted Transfer"). By way of example and not limitation, the parties agree that for purposes of a Permitted Transfer, the phrase "in the ordinary course of business" shall include a Transfer of the Eligible Equipment due to its replacement or obsolescence or lack of continuing utility in the industrial/ manufacturing operations in the Enterprise Site, failure to comply with the material terms of this Agreement, or a Transfer of only some, but not all or substantially all, of the Eligible Equipment. SunPower agrees on behalf of itself and its successors and assigns, that if SunPower or its successor-in-interest ceases using the Enterprise Site for industrial/ manufacturing purposes, or Transfers the Eligible Equipment in a non-Permitted Transfer without the Agency's consent (collectively, "Repayment Event"), this Agreement shall terminate as of the date thereof, and SunPower and its successor-in-interest shall, within thirty (30) days after the date of the Repayment Event, reimburse the Agency for a portion of the Equipment Assistance (the "Repayment Obligation") as follows:

(a) If SunPower has received the Initial Installment of \$700,000 of the Equipment Assistance, the following provisions shall apply:

(i) If a Repayment Event occurs before January 1, 2012, SunPower or its successor-in-interest shall reimburse the Agency a total of Nine Hundred Thousand Dollars (\$900,000) if it has received both the Initial Installment and at least one Additional Equipment Assistance payment or Seven Hundred Thousand Dollars (\$700,000) if it has received just the Initial Installment;

(ii) If a Repayment Event occurs on or after January 1, 2012, but before January 1, 2013, SunPower or its successor-in-interest shall reimburse the Agency a total of Seven Hundred Thousand Dollars (\$700,000) towards the cost of the Eligible Equipment;

(iii) If a Repayment Event occurs on or after January 1, 2013, but before January 1, 2014, SunPower or its successor-in-interest shall reimburse the Agency a total of Five Hundred Thousand (\$500,000) towards the cost of the Eligible Equipment.

(b) If a Repayment Event has not occurred before January 1, 2014, SunPower or its successor-in-interest shall not be required to repay the Agency for any portion of the Equipment Assistance and shall from that time onwards not be subject to any potential Repayment Obligation.

SunPower and its successor-in-interest shall be jointly and severally liable to the Agency for the Repayment Obligation, if any, owed under this Agreement. If SunPower

or its successor-in-interest ceases to use the Enterprise Site for industrial/or manufacturing purposes prior to January 1, 2014, and fails to reimburse the Agency as required hereunder, SunPower, on behalf of itself and its successors and assigns, hereby grants the Agency the right to enter the Enterprise Site and take possession of the Eligible Equipment. If the Agency takes possession of the Eligible Equipment, the Agency shall have the right to take any and all actions with respect to such equipment as set forth in the Security Agreement for such equipment, including selling such equipment and applying the proceeds towards satisfying the Repayment Obligation. The Agency's only remedies for any breach of this Agreement are its rights to the Repayment Obligation and its security interest in the Eligible Equipment.

14. Local Sales and Use Tax. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the development or rehabilitation of the Enterprise Site, the California Sales and Use Tax (the "Local Tax") shall be allocated to the Enterprise Site, to the extent reasonably possible. The development or rehabilitation work, as currently envisioned, has the potential to be a significant source of additional local use tax revenue to the City of Milpitas. SunPower and all of its contractors, subcontractors, and suppliers shall cooperate with the City to the extent reasonably possible to maximize the allocation of the Local Tax to the City.

15. Severability of Provisions. If any provisions of this Agreement are held invalid, the remainder of this Agreement shall not be affected hereby, if such remainder would then continue to conform to the terms and requirements of applicable law.

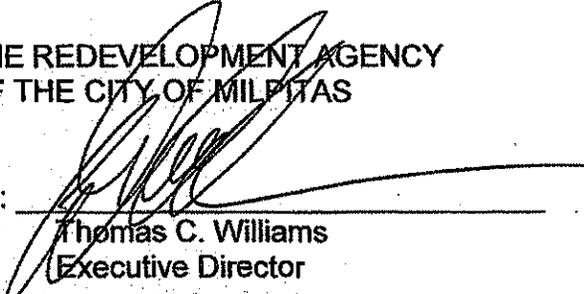
16. Termination. Except to the extent terminated earlier as provided in Section 13 above, this Agreement shall terminate on January 1, 2016.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above. 2/01/2011.

Approved as to form:

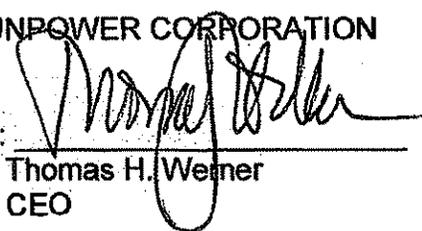
Page 06, Asst Agency Counsel
Michael Ogaz
Agency Counsel

THE REDEVELOPMENT AGENCY
OF THE CITY OF MILPITAS

By: 

Thomas C. Williams
Executive Director

SUNPOWER CORPORATION

By: 

Thomas H. Werner
CEO

Milpitas Redevelopment Agency Funding	\$1,500,000
• Backend/Packaging	\$1,550,000
•	
•	
•	
•	
•	
•	
•	
Total	\$1,500,000

****Exhibit A is subject to the reimbursement schedule set forth in Paragraph 2 of the Agreement.**

EXHIBIT B

SECURITY AGREEMENT

THIS SECURITY AGREEMENT ("Agreement") is entered into as of this 1st day of ~~February~~, 2010 in favor of the REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS ("Agency") by SunPower Corporation Inc. a Delaware corporation, ("SunPower"), whose principal place of business is 3939 North First Street, San Jose, California.

RECITALS

A. Agency and SunPower entered into that certain Financing Agreement for the Development or Rehabilitation of Property in Milpitas, California for Specified Solar Manufacturing Purposes dated ~~February~~ 2010 ("Financing Agreement"), whereby the Agency agreed to reimburse SunPower for the acquisition and installation costs for certain equipment in connection with SunPower's agreement to provide solar panel manufacturing equipment for a 40,000 square feet of an industrial or manufacturing building located at 1177 Gibraltar Drive, Milpitas, California ("Site").

B. Pursuant to the terms of the Financing Agreement, SunPower agreed to repay the Agency for a portion of the equipment assistance if SunPower ceases solar panel manufacturing in the Enterprise Site within certain time periods set forth in the Financing Agreement ("Repayment Obligation").

C. As security for SunPower's potential Repayment Obligation, the Financing Agreement provides that SunPower shall grant to the Agency a security interest in certain equipment acquired by SunPower for the Site.

NOW, THEREFORE, in consideration of the Agency's agreement to enter into the Financing Agreement, SunPower agrees as follows:

1. **SECURITY INTEREST.** SunPower hereby grants and assigns to Agency a security interest in all of the following described personal property in which SunPower now or at any time hereafter has any interest (collectively, the "Collateral"):

Any of the equipment listed on Exhibit A attached hereto, which are or are to be incorporated into, used in connection with, or appropriated for use on the Site.

2. **OBLIGATIONS SECURED.** This Agreement secures the payment and performance of all present and future obligations of SunPower to Agency under the Financing Agreement and under any other agreement which recites that it is secured hereby.

3. **REPRESENTATIONS AND WARRANTIES.** SunPower represents and warrants that: (a) SunPower has, or will have, good title to the Collateral; (b) upon the recording of a financing statement, the Collateral will not be encumbered by or subject to a security interest superior to Agency's rights as a "Secured Party"; and (c) SunPower intends provide the solar panel manufacturing equipment at Site.
4. **RIGHTS OF LENDER.** In addition to Agency's rights as a "Secured Party" under the California Uniform Commercial Code, as amended or recodified from time to time ("UCC"), if SunPower is obligated to pay the Repayment Obligation and fails to do so within the time period set forth in the Financing Agreement, the Agency may, but shall not be obligated to, without notice and at the expense of SunPower: (a) give notice to any person of Agency's rights hereunder and enforce such rights; (b) insure, protect, defend and preserve the Collateral or any rights or interests of Agency therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to SunPower under or from the Collateral. Agency shall have no duty or obligation to make or give any presentments, demands for performance, notices of nonperformance, notices of protest or notices of dishonor in connection with any of the Collateral.
5. **COLLATERAL DESIGNATION STATEMENT.** SunPower shall, from time to time within five (5) days of Agency's request, deliver to Agency a written statement showing the description and location of all Collateral then subject to this Agreement.
6. **MISCELLANEOUS UNDERTAKINGS.** SunPower, at its sole cost and expense, agrees to pay within thirty (30) days of Agency's demand, all expenses, including, without limitation, attorneys' fees and court costs, incurred by Agency in connection with the enforcement of any of the security interests granted under this Agreement.
7. **DEFAULT.** "Default" shall mean the failure by SunPower to pay the Repayment Obligation to the Agency within the time period set forth in the Financing Agreement or the material failure to be true of any representation or warranty of SunPower herein.
8. **LENDER'S RIGHTS ON DEFAULT.** Upon the occurrence of a Default under this Agreement, then in addition to all of Agency's rights as a "Secured Party" under the UCC or otherwise by law:

Agency may (i) upon written notice, require SunPower to assemble any or all of the Collateral and make it available to Agency at a place designated by Agency; (ii) without prior notice, enter upon the subject Site or other place where any of the Collateral may be located and take possession of, collect, sell, and dispose of any or all of the Collateral, and store the same at locations acceptable to Agency at SunPower's expense; (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become purchaser at any such sales; and (iv) may,

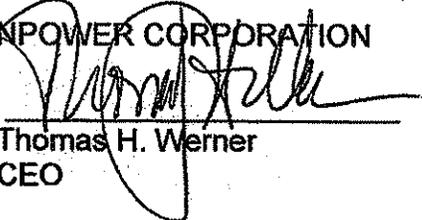
for the account of SunPower and at SunPower's expense: (a) operate, use, consume, sell or dispose of the Collateral as Agency deems appropriate for the purpose of performing any or all of the obligations secured by this Agreement; (b) enter into any agreement, compromise, or settlement, including insurance claims, which Agency may deem desirable or proper with respect to any of the Collateral; (c) endorse and deliver evidences of title for, and receive, enforce and collect by legal action or otherwise, all indebtedness and obligations now or hereafter owing to SunPower in connection with or on account of any or all of the Collateral; and (d) perform any of the obligations secured by this Agreement.

Notwithstanding any other provision of this Agreement, Agency shall not be deemed to have accepted any property other than cash in satisfaction of any obligation of SunPower to Agency unless Agency shall make an express written election of said remedy.

9. **POWER OF ATTORNEY.** SunPower hereby irrevocably appoints Agency as SunPower's attorney-in-fact (such agency being coupled with an interest) for the sole purpose that Agency may, without the obligation to do so, in Agency's name or in the name of SunPower, prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve any of Agency's security interests and rights in or to any of the Collateral, and, upon Default hereunder take any other action specified in Section 8 hereof; provided that Agency as such attorney-in-fact shall be accountable only for such funds as are actually received by Agency.
10. **POSSESSION AND USE OF COLLATERAL.** Except as otherwise provided in this Agreement, so long as no Default exists under this Agreement, SunPower may possess, use, move, transfer or dispose of any of the Collateral in the ordinary course of SunPower's business; but any sale, lease, assignment, encumbrance, hypothecation, transfer or other disposition of all or substantially all of the Collateral, other than in the ordinary course of SunPower's business, shall be subject to Agency's security interest in the Collateral.
11. **INTEGRATION.** This Agreement and the Financing Agreement contain the entire agreement of the parties and supersede any and all prior negotiations. No subsequent agreement, representation, or promise made by either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.
12. **FURTHER ASSURANCES.** At any time or from time to time upon the request of Agency, SunPower shall execute and deliver such further documents and do such other acts and things as Agency may reasonably request in order to effect fully the purpose of this Agreement, including, without limitation, perfecting the interest of the Agency hereunder.

IN WITNESS WHEREOF, SunPower has executed this Security Agreement as of the date appearing on the first page of this Agreement.

SUNPOWER CORPORATION

By: 

Thomas H. Werner
CEO

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.E: APPROVE THE SUCCESSOR AGENCY'S RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JANUARY 1 TO JUNE 30, 2015 (FY 14-15B)

RECOMMENDED ACTION(S):

Approve a Recognized Obligation Payment Schedule for the period of January 1, 2015, to June 30, 2015, as required under the "Dissolution Law" (ABx1 26, as revised by Court order and AB 1484), and direct Successor Agency staff 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.

BACKGROUND:

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 only those payments listed on the ROPS may be made by the Successor Agency.

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.

DISCUSSION:

The attached ROPS 14-15B has been prepared by the Successor Agency staff for the Oversight Board's consideration. Upon review of the proposed ROPS 13-14B, staff noted that Successor Agency staff has included the Sun Power Agreement, two new items, as well as several items that the Oversight Board has previously determined to be unenforceable or otherwise inappropriate for inclusion on the ROPS, as detailed below:

- Line Item 5 - \$200,000 to SunPower, Inc.: Because the Oversight Board has no authority to grant the request to reform this Agreement, this item should be retired without additional payment.
- Line Item 12 – Housing Successor Agency Administrative Costs: This is a new line item. Oversight Board Counsel recommends that this item be deleted from the ROPS. Recent legislation (AB 471 Atkins) revised section 34177 of the Health and Safety Code to add new subdivisions (p) and (l). These subdivisions allow for the inclusion of a "housing entity administrative cost allowance" on ROPS from July 1, 2014, to July 1, 2018, but only for "local housing authorities that assumed the housing functions of the former redevelopment agency pursuant to paragraph (2) and (3) of subdivision (b) of Section 34176." Based on this narrow language, the only local housing authorities eligible to receive a "housing entity administrative cost allowance" are those that became responsible for performing the housing functions of the former redevelopment agency because the city, county, or city and county did not elect to retain the responsibility for performing housing functions. (HSC 34176 (b)(2), (3); see also Sen. Appropriations Com., Fiscal Summary of Assem. Bill No. 471 (2013-2014 Reg. Sess.) as amended Jan. 17, 2014.) It is Oversight Board Counsel's understanding that the City of Milpitas formed a Housing Authority specifically to take over the housing functions of the former RDA, and that the functions of the Housing Authority did not transfer to an existing Housing Authority by operation of law based on the City's determination not to elect to retain the responsibilities. In

light of this, the Milpitas Housing Authority does not qualify for the housing entity administrative cost allowance.

- Line Item 13 – LMIHF Loan: This line item has been included on prior ROPS (previously listed as Item 3), and has been repeatedly denied by the Oversight Board, including on ROPS III, ROPS 13-14A, and ROPS 13-14B. Most recently, the Oversight Board retired this item when it considered ROPS 14-15A.
- Line Item 14 – Main Street Pavement Reconstruction: This is a new line item, consistent with the requested Bond Expenditure Agreement considered by the Oversight Board in an earlier agenda item. This item should be included if the Oversight Board determined to approve the Bond Expenditure Agreement.
- Line Item 15 – Pension Payments: This line item has been included on prior ROPS (previously listed as Item 7), and has been repeatedly denied by the Oversight Board, including on ROPS III, ROPS 13-14A, and ROPS 13-14B. Most recently, the Oversight Board retired this item when it considered ROPS 14-15A.
- Line Item 16 – Retiree Medical Benefits payments: This line item has been include on prior ROPS (previously listed as Item 8), and has been repeatedly denied by the Oversight Board, including on ROPS III, ROPS 13-14A, and ROPS 13-14B. Most recently, the Oversight Board retired this item when it considered ROPS 14-15A.

As set forth above, Oversight Board Counsel recommends that the Oversight Board take action on Item 14, consistent with its action on the earlier agenda items, and that it deny Item 5, as well as Item 12 based on the Successor Housing Agency's ineligibility under the Dissolution Law. And unless circumstances have changed to warrant the reinstatement of previously stricken items from the ROPS, Oversight Board counsel does not believe that Items 13, 15, or 16 are properly before the Oversight Board, and recommends that these be stricken from the ROPS based on the Oversight Board's prior direction that these items be retired.

ATTACHMENT(S):

ROPS Workbook
Resolution

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

Recognized Obligation Payment Schedule (ROPS 14-15B) - Summary

Filed for the January 1, 2015 through June 30, 2015 Period

Name of Successor Agency: Milpitas
Name of County: Santa Clara

Current Period Requested Funding for Outstanding Debt or Obligation	Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding	
A Sources (B+C+D):	\$ 3,989,878
B Bond Proceeds Funding (ROPS Detail)	3,989,878
C Reserve Balance Funding (ROPS Detail)	-
D Other Funding (ROPS Detail)	-
E Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 9,672,046
F Non-Administrative Costs (ROPS Detail)	9,543,757
G Administrative Costs (ROPS Detail)	128,289
H Current Period Enforceable Obligations (A+E):	\$ 13,661,924

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
I Enforceable Obligations funded with RPTTF (E):	9,672,046
J Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	(83,535)
K Adjusted Current Period RPTTF Requested Funding (I-J)	\$ 9,588,511

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
L Enforceable Obligations funded with RPTTF (E):	9,672,046
M Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
N Adjusted Current Period RPTTF Requested Funding (L-M)	9,672,046

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (m) of the Health and Safety code, I
hereby certify that the above is a true and accurate Recognized
Obligation Payment Schedule for the above named agency.

<u>Emma C. Karlen</u>	Director of Financial Services
Name	Title
/s/ <u>Emma C. Karlen</u>	9/8/2014
Signature	Date

Recognized Obligation Payment Schedule (ROPS 14-15B) - ROPS Detail
January 1, 2015 through June 30, 2015
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K				L		M		N	O	P
										Funding Source				RPTTF	Six-Month Total					
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)			Other Funds			Non-Admin	Admin			
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds		Non-Admin	Admin			Six-Month Total		
1	2003 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	11/20/2003	9/1/2032	US Bank	Bonds issued to fund redevelopment projects	Project Area #1	\$ 315,645,377	N	\$ 3,989,878	\$ -	\$ -	\$ 9,643,757	\$ 128,289	\$ 13,661,924					
2	Agreement of Purchase and Sale	City/County Loans On or Before	8/3/2003	6/17/2034	County of Santa Clara	Land Purchase	Project Area #1	80,000,000	N				5,000,000		5,000,000					
5	Financing Agreement	Miscellaneous	2/1/2011	1/1/2016	SunPower Corporation	Assistance per CRL 33444.6	Project Area #1	200,000	N				200,000		200,000					
9	Administrative Costs of Successor Agency	Admin Costs	1/1/2015	6/30/2015	City of Milpitas	Administrative costs to wind down RDA	Project Area #1	128,289	N					128,289	128,289					
11	Property appraisal services	Property Dispositions	7/1/2014	6/30/2015	To be determined	Appraisal of Successor Agency properties		40,000	N						-					
12	Housing Successor Agency Administrative Costs	Housing Admin Costs	1/1/2015	6/30/2015	City of Milpitas Housing Authority	Administrative costs to administer housing programs (AB 471)	Project Area #1	94,493	N				94,493		94,493					
13	LMIHF Loan	Interfund Loan	8/18/2010	8/18/2020	City of Milpitas Housing Authority	LMIHF money loaned to former RDA to purchase land. Repayment pursuant to HSC 34171(d)(1)(G) and 34191.4(b)(1)	Project Area #1	6,978,224	N				348,911		348,911					
14	Main Street Pavement Reconstruction	Bond Expenditure Agreement	10/7/2014	10/7/2024	City of Milpitas	Use unspent bond proceeds in accordance with bond covenants (HSC Section 34191.4 (c))	Project Area #1	3,989,878	N	3,989,878					3,989,878					
15	Pension payments	Unfunded liability	7/1/2014	7/1/2033	CalPERS	Pension payments for City employees who performed work directly on behalf of former RDA pursuant to HSC 34171(d)(1)(C)	Project Area #1	6,582,877	N				173,234		173,234					
16	Retiree Medical Benefits payments	Unfunded liability	7/1/2014	7/1/2033	California Employers' Retiree Benefit Trust (CERBT)	Retiree Medical Benefits payments for City employees who performed work directly on behalf of former RDA pursuant to HSC 34171 (d)(1)(C)	Project Area #1	3,659,987	N				96,315		96,315					
17															-					
18									N						-					
19									N						-					
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61									N						-					

Recognized Obligation Payment Schedule (ROPS 14-15B) - Report of Cash Balances

(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see https://rad.dof.ca.gov/rad-sa/pdf/Cash_Balance_Agency_Tips_Sheet.pdf.

A	B	C	D	E	F	G	H	I	
Cash Balance Information by ROPS Period		Fund Sources						Comments	
		Bond Proceeds		Reserve Balance		Other	RPTTF		
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, Grants, Interest, Etc.	Non-Admin and Admin		
ROPS 13-14B Actuals (01/01/14 - 06/30/14)									
1	Beginning Available Cash Balance (Actual 01/01/14)			67,382		134,325	78,594		
2	Revenue/Income (Actual 06/30/14) RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014					2,225	9,253,054	\$2,149 represents interest received in ROPS 13-14B. \$76 represents interest received in prior ROPS period.	
3	Expenditures for ROPS 13-14B Enforceable Obligations (Actual 06/30/14) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q						9,169,595		
4	Retention of Available Cash Balance (Actual 06/30/14) RPTTF amount retained should only include the amounts distributed for debt service reserve(s) approved in ROPS 13-14B								
5	ROPS 13-14B RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 13-14B PPA in the Report of PPA, Column S	No entry required						83,535	
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	-	-	67,382	-	136,550	78,518		
ROPS 14-15A Estimate (07/01/14 - 12/31/14)									
7	Beginning Available Cash Balance (Actual 07/01/14) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	-	-	67,382	-	136,550	162,053		
8	Revenue/Income (Estimate 12/31/14) RPTTF amounts should tie to the ROPS 14-15A distribution from the County Auditor-Controller during June 2014	3,989,878					9,835,246	Beginning available cash balances of \$67,382 in E1; \$134,245 in G1; and \$78,670 in H1 were withheld (deducted) by the County from the ROPS FY14-15A distribution.	
9	Expenditures for ROPS 14-15A Enforceable Obligations (Estimate 12/31/14)			67,382		136,550	9,911,611		
10	Retention of Available Cash Balance (Estimate 12/31/14) RPTTF amount retained should only include the amount distributed for debt service reserve(s) approved in ROPS 14-15A								
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	3,989,878	-	-	-	-	85,688		

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
JANUARY 1 TO JUNE 30, 2015 (FY 14-15B)**

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 October 2, 2014, a Recognized Obligation Payment Schedule covering the period January 1, 2015, to June 30, 2015 (ROPS 14-15B); and

WHEREAS, in accordance with AB 1484, the Successor Agency to the former Milpitas Redevelopment Agency ("Successor Agency") prepared and submitted ROPS 14-15B 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 14-15B 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 includes but is not limited to the staff report, testimony by staff and the public, and other materials and evidence provided to it.

BE IT FURTHER RESOLVED that the Oversight Board approves ROPS 14-15B as revised by the Oversight Board to:

- (1) to revise columns I, J, and N for line item 5, to reflect that the total outstanding is \$0, that this item is retired ("N" changed to "Y"), and to reflect that the current payment from RPTTF is \$0;
- (2) to revise columns I, J, and N for line item 12, to reflect that the total outstanding is \$0, that this item is retired ("N" changed to "Y"), and to reflect that the current payment from RPTTF is \$0, consistent with State law which limits this payment to Housing Successor Agencies that assumed the housing function updates of the former RDA pursuant to Health and Safety Code section 34176(b)(2)-(3);
- (3) to revise columns I, J, and N for line items 13, 15, and 16, to reflect that the total outstanding is \$0, that this item was previously retired ("N" changed to "Y"), and to reflect that the current payment from RPTTF is \$0, consistent with the prior actions of the Oversight Board retiring these items, which were formerly listed as items 3, 7, and 8;

BE IT FURTHER RESOLVED that the Oversight Board directs Successor Agency staff to forward the approved ROPS, as revised by the Oversight Board, 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 _____, 2014, by the following
vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump
Oversight Board Secretary

Maribel S. Medina
Oversight Board Chair

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.F: CONSIDER REQUEST TO AUTHORIZE SUCCESSOR AGENCY STAFF TO ISSUE REFUNDING BONDS FOR 2003 TAX ALLOCATION BONDS

RECOMMENDED ACTION(S):

Consider the Successor Agency staff's request that the Oversight Board delegate authority to staff to issue refunding bonds to take advantage of lower interest rates.

BACKGROUND:

Section 34177.5 of the Health and Safety Code addresses the ability of a Successor Agency to issue refunding bonds. Section 34177.5 states that all actions authorized thereunder shall be subject to the approval of the Oversight Board. (Health & Saf. Code,* § 34177.5, subd. (f).)

Specifically, section 34177.5 provides successor agencies with the authority, rights, and powers to issue bonds to refund bonds of the former redevelopment agency to provide savings to the successor agency. (§ 34177.5, subd. (a)(1).) This power, however, is conditioned on the successor agency demonstrating that (A) the total interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded, plus the remaining principal of the bonds to be refunded; and (B) the principal amount of the refunding bonds shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance (§ 34177.5, subd. (a)(1)).

Section 34177.5, subdivision (c), further provides that prior to incurring any bonds, the successor agency may subordinate to the bonds the amount required to be paid to an affected taxing entity pursuant to paragraph (l) of section 34183, subdivision (a), subject to various conditions. (§ 34177.5, subd. (c)(1)-(3).)

The Dissolution Law further provides that a successor agency must make diligent efforts to ensure that the lowest long-term cost financing is obtained, which financing cannot provide for any bullets or spikes, and shall not use variable rates. It also requires the successor agency to make use of an independent financial advisor in developing financing proposals and to make work products of the financial advisor available to DOF at its request. (§ 34177.5, subd. (h).)

DISCUSSION:

Attached is a memo from Successor Agency staff requesting that the Oversight Board authorize Successor Agency staff to issue refunding bonds for its 2003 Tax Allocation Bonds.

The memo indicates that staff has received "a couple of preliminary analyses received from underwriters" that indicate that the Successor Agency may be able to achieve a net present value savings of \$15 to \$16 million for the remaining terms by refunding the Bonds.

Oversight Board Counsel did speak with Successor Agency staff and Oversight Board member Emma Karlen regarding whether it was Successor Agency staff's intention to come back to the Oversight Board for approval of the financial advisor and bond counsel team to be selected. She indicated that it was not her intention to do so, given that time is of the essence, and there is a risk that interest rates will rise if the Successor Agency does not act quickly.

*All further statutory references are to Health and Safety Code, unless otherwise noted.

Given the Oversight Board's statutory role in approving Successor Agency activities related to the issuance of refunding bonds, Oversight Board counsel suggests that the Oversight Board authorize an initial financial analysis to determine that the proposed refinancing will satisfy the conditions of Health and Safety Code section 34177.5, and request that Successor Agency staff work with other Successor Agency staff in the County, such as Morgan Hill which recently completed its own bond refinancing, to develop a proposed process for obtaining Oversight Board input and approvals as necessary pursuant to section 34177.5.

Alternatively, the Oversight Board could consider appointing a Subcommittee to work with Successor Agency staff to review proposals for financial consultants and bond counsel, and to review any initial financial analyses prepared to ensure that the requirements of section 34177.5 are being met and that items requiring approval pursuant to section 34177.5 are brought to the Oversight Board for consideration.

ATTACHMENT(S):

Successor Agency Memo
Resolution

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

OVERSIGHT BOARD MEMORANDUM

TO: OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS RDA
FROM: EMMA KARLEN, CITY OF MILPITAS FINANCE DIRECTOR
SUBJECT: APPROVE SUCCESSOR AGENCY TO INITIATE THE REFUNDING OF THE 2003 TAX ALLOCATION BONDS INCLUDING THE HIRING OF FINANCIAL ADVISOR AND BOND COUNSEL
DATE: 9/9/2014
CC: JENNIFER GORE, OVERSIGHT BOARD GENERAL COUNSEL

The Milpitas Redevelopment Agency issued its Tax Allocation Bonds in 2003 (the Bonds). The Bonds will have its final maturity on September 1, 2032 and has an outstanding principal balance of \$145,990,000. Due to current low interest rate environment, there is advantage and savings to be realized if the Successor Agency refunds (refinances) the Bonds. Based on a couple of preliminary analyses received from underwriters, the Successor Agency can potentially achieve a net present value savings of \$15 million to \$16 million for the remaining terms by refunding the Bonds. Any savings from the lower debt service payment as a result of the refunding will benefit all the taxing entities as there will be more property tax revenues available for distribution.

Since time is of essence, upon the approval of the Oversight Board, the Successor Agency will put together a team of finance advisor and bond counsel who will provide expert advice in issuing the refunding bonds. It is expected that the fees for the financial advisor and bond counsel will be paid from the refunding bond proceeds and there will not be any out of pocket costs that will require payments from the ROPS.

RECOMMENDATION: That the Board adopts a resolution approving the Successor Agency to initiate the refunding of the 2003 Tax Allocation Bonds including the hiring of financial advisor and bond counsel.

RESOLUTION NO. _____

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF
THE FORMER MILPITAS REDEVELOPMENT AGENCY AUTHORIZING THE
SUCCESSOR AGENCY TO OBTAIN AN INITIAL FINANCIAL ANALYSIS ON
ISSUING REFUNDING BONDS**

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 allows a Successor Agency to issue refunding bonds, subject to the satisfaction of certain conditions and the authorization of its Oversight Board pursuant to Health and Safety Code section 34177.5; and

WHEREAS, the former Milpitas Redevelopment Agency issued tax allocation bonds in 2003, which have a final maturity on September 1, 2032, and an outstanding principal balance of \$145,990,000; and

WHEREAS, Successor Agency staff has requested authorization from the Oversight Board to initiate refunding the 2003 tax allocation bonds, including the hiring of a financial advisor and bond counsel

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

BE IT FURTHER RESOLVED that the Oversight Board authorize Successor Agency staff to obtain an initial financial analysis to determine that the proposed refinancing will satisfy the conditions of Health and Safety Code section 34177.5, and is in the best interest of the taxing entities; and

BE IT FURTHER RESOLVED that the Oversight Board directs Successor Agency staff to contact other Successor Agency staff in the County that have recently completed their own bond refinancing, and develop a process for obtaining Oversight Board input and approvals throughout the process, as required by statute.

PASSED AND ADOPTED this ____ day of _____, 2014, by the following
vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Barbara Crump
Oversight Board Secretary

Maribel S. Medina
Oversight Board Chair

OVERSIGHT BOARD STAFF REPORT

MEETING DATE: September 18, 2014

ITEM V.G: CONSIDER REQUEST TO TERMINATE STANDSTILL AGREEMENT BETWEEN OVERSIGHT BOARD AND MILPITAS ENTITIES

RECOMMENDED ACTION(S):

Deny the City Attorney's request to issue a thirty day notice of termination of the Standstill Agreement, as the Standstill Agreement has expired by its own terms.

BACKGROUND:

As stated in the attached memo from the Milpitas City Attorney, on February 25, 2013, the Oversight Board approved a Standstill agreement between the Successor Agency and the City of Milpitas, and Milpitas Economic Development Corporation (collectively "Milpitas Entities") to preserve the assets held by the various Milpitas Entities that were ordered returned by the State Controller's Office.

Under the Standstill Agreement, the Oversight Board agreed not to intervene, delay, direct the Successor Agency to bring, or otherwise participate in a court action seeking an injunction against further spending by the Milpitas Economic Development Corporation, so long as the assets were preserved by the Milpitas Entities.

Subsequently, litigation was initiated by the County of Santa Clara and the State of California to seek the return of those assets to the Successor Agency. The Milpitas Entities also filed an action in the same court to determine their rights under the Dissolution Law. Both court cases were settled in June 2014.

Section 8 of the Standstill Agreement provides that the Standstill Agreement will automatically 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."

DISCUSSION:

Attached are two court orders dismissing the actions filed by the County, the State, and the Milpitas Entities (Sac Sup. Court Case Nos. 34-2013-80001436 and 34-2013-80001508). Based on these court orders, Oversight Board Counsel believes that the Standstill Agreement has expired pursuant to Section 8. Given this, there is no need for any party to issue a 30 day termination notice.

ATTACHMENT(S):

Successor Agency Memo
Court Orders

Prepared by: Jennifer Gore
Oversight Board Legal Counsel

OVERSIGHT BOARD MEMORANDUM

TO: OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS RDA
FROM: MICHAEL OGAZ, MILPITAS CITY ATTORNEY
SUBJECT: TERMINATION OF STANDSTILL AGREEMENT
DATE: SEPTEMBER 5, 2014
CC: JENNIFER GORE, OVERSIGHT BOARD GENERAL COUNSEL

By Resolution #20, the Oversight Board approved the Standstill Agreement on February 25, 2013. (See attachment A.) The purpose of that Agreement was to maintain assets held by the Milpitas Economic Development Corporation and in some cases assets held by the City of Milpitas, pending final adjudication of the legal differences maintained by various parties. The Oversight Board, the County of Santa Clara, the City of Milpitas and the State of California, disagreed regarding the disposition of these assets in the wake of the dissolution of Redevelopment per AB X126, AB 1484 and successive legislation.

The County of Santa Clara and the State of California filed a writ petition in Sacramento Superior Court (Case No. 34-2013-80001436) to determine rights as to such assets and on its part the City of Milpitas and its associated entities filed a writ petition in that same court (Case No. 34-2013-80001508) to determine its rights under the dissolution law.

Pending a trial on the merits, the parties to both litigation cases resolved their differences and entered into a Settlement Agreement. (See attachment B.) The Settlement Agreement was conditioned upon the Oversight Board approving a Resolution approving the transfer of Government Purpose Property. This Board did approve that Resolution at its meeting of June 19, 2014.

Pursuant to the terms of the Settlement Agreement, cash has been remitted, property transferred and all acts required to date have been accomplished. This is evidenced by the Successor Agency's receipt of a Finding of Completion from the State Department of Finance. (See attachment C.) Currently the only pending items are transfer of Schedule 1 properties to the City (no time frame required) and preparation of the Long Range Property Management Plan. The latter will be addressed in a separate memo to the Board on a different agenda item.

With the parties in agreement as to the disposition of assets, there appears to be no purpose remaining for the Standstill Agreement. All of the assets to be preserved under that agreement have been disposed of in some manner by the Settlement Agreement. As such, there is no purpose for the Standstill Agreement and it should be terminated.

RECOMMENDATION: That the Board direct its General Counsel to prepare and send a 30 day notices of termination of the Standstill Agreement pursuant to Section 6 of that Agreement and to prepare a resolution terminating the Standstill Agreement for action at the next Board meeting.

RESOLUTION NO. 20

**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.

ATTACHMENT A

PASSED AND ADOPTED this 25th day of February, by the following vote:

AYES: mendizabal, Grilli, Karlen, Knopf, Murdter, Reniford, Williams

NOES:

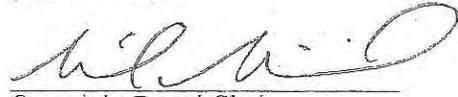
ABSENT:

ABSTAIN:

ATTEST:


Barbara Crump, Oversight Board Secretary

APPROVED:


Oversight Board Chair
Michael Mendizabal

**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 25th day of February, 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. 20 (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.

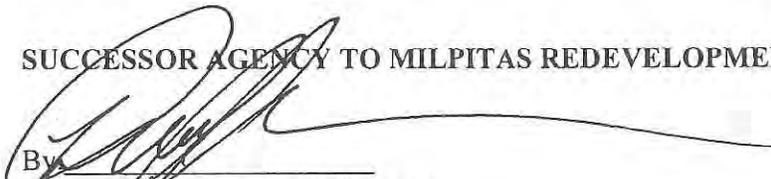
MILPITAS ECONOMIC DEVELOPMENT CORPORATION

By: 
Name: Thomas Williams
Title: President

CITY OF MILPITAS

By: 
Name: Thomas Williams
Title: City Manager

SUCCESSOR AGENCY TO MILPITAS REDEVELOPMENT AGENCY

By: 
Name: Thomas Williams
Title: Executive Director

As Requested and Approved by:

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

By: 
Name: Michael Mendizábal
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	6,988,800
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	029-17-012	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

ATTACHMENT A

City of Milpitas

Asset Transfer Review Program

Asset Description	Parcel #/Project #	Amount
Bldg & Improv-MSD Master Plan Imprv Phase I	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-MSD 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-MSD 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-Berryessa 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
01/31/12	Preston Pipeline #10062	City Staff Project Administration & Inspection (Project #9001)	100,000.00	(56,850.68)		43,149.32
		Wrigley Ford Dredging (Project #9002)	294,061.00	(206,965.48)		87,095.52
02/07/12	Fairbank Maslin, Maulin, Meiz & Assoc	City Staff Project Administration (Project #9002)	50,000.00	(26,365.54)		23,634.46
06/26/12	Goldfarb & Lipman #17558	Tax Measure Survey	32,500.00	(32,500.00)		-
		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	21,760,000.00	(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	25,960,000.00	(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

RESOLUTION NO. 20

**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.

ATTACHMENT A

PASSED AND ADOPTED this 25th day of February, by the following vote:

AYES: Mendizabal, Grilli, Karlen, Knopf, Murdter, Reliford, Williams

NOES:

ABSENT:

ABSTAIN:

ATTEST:


Barbara Crump, Oversight Board Secretary

APPROVED:


Oversight Board Chair
Michael Mendizabal

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) is made and entered into effective June 17, 2014 (the “Effective Date”), by and among the County of Santa Clara and Emily Harrison, in her capacity as Santa Clara County Auditor-Controller (collectively, “County”); the Santa Clara County Office of Education (“SCCOE”); John Chiang, in his official capacity as California State Controller (“State Controller”); the California Department of Finance and Michael Cohen, in his official capacity as Director of the California Department of Finance (collectively, “DOF”); the Milpitas Economic Development Corporation (“MEDC”); the City of Milpitas (“City”); the Successor Agency to the former Redevelopment Agency of the City of Milpitas (“Successor Agency”); and the Milpitas Housing Authority (“MHA”). The above parties are collectively referred to herein as “Parties” and individually as a “Party.”

RECITALS

WHEREAS, on February 1, 2012, the Redevelopment Agency of the City of Milpitas (“MRDA”) dissolved pursuant to Assembly Bill X1 26 (2011), later modified by Assembly Bill 1484 (2012) (collectively, the “Dissolution Legislation”); and

WHEREAS, on August 28, 2012, the State Controller published its review of cash and real property asset transfers made by the MRDA that the State Controller deemed unallowable under the Dissolution Legislation, and ordered the City and the MEDC to return those assets to the Successor Agency (“State Controller’s Order”); and

WHEREAS, on November 22, 2013, DOF issued its final “other-funds-and-assets” determination (“OFA Determination”) of the amount of non-housing-related unencumbered cash and cash equivalents available for distribution to taxing entities in accordance with Health and Safety Code section 34179.6, and directed the Successor Agency to transmit the amount of \$40,875,908 to the Santa Clara County Auditor-Controller (“Auditor-Controller”); and

WHEREAS, the County and the SCCOE filed a verified petition for writ of mandate and complaint against the MEDC, the City, and the Successor Agency, with real parties in interest the State Controller and DOF in the Superior Court of the State of California, County of Sacramento (Case No. 34-2013-80001436), as amended by the first amended verified petition for writs of mandate and complaint naming the MHA as additional respondent, as further amended by the second amended verified petition for writs of mandate and complaint (collectively, the “County Action”); and

WHEREAS, the Successor Agency, the City, the MHA, and the MEDC (collectively, “City Parties”) filed a separate petition for writ and complaint against the State Controller, DOF, and the Auditor-Controller in the Superior Court of the State of California, County of Sacramento (Case No. 34-2013-80001508) (the “City Action,” and with the County Action, collectively, the “Actions”); and

WHEREAS, the State Controller and DOF filed a cross-petition and cross-complaint and then a first amended cross-petition and cross-complaint against the City Parties in the City Action; and

Settlement Agreement
Case No. 34-2013-80001436
Case No. 34-2013-80001508

WHEREAS, the Parties wish to completely and fully settle all claims and cross-claims that both exist among them and have been asserted, or could have been asserted, in the Actions.

NOW, THEREFORE, for and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the foregoing and as follows:

TERMS OF SETTLEMENT

1. Governmental Purpose Properties. The Parties acknowledge and agree that the Oversight Board (the "Oversight Board") to the Successor Agency has discretion to approve disposition of the improved real property listed on Schedule 1 and on Schedule 2 (the "GP Property") for continuing governmental use.

a. Request for Oversight Board Action. On or before the Effective Date, the County shall request that the Oversight Board duly notice and convene a public meeting no later than two (2) business days from the Effective Date to consider the disposition of the GP Property. The County and the City Parties shall jointly propose at the Oversight Board public meeting that the Oversight Board adopt a resolution, in substantially the form attached hereto as Exhibit A (the "GP Property Resolution"), to convey the GP Property to the City for continued governmental use in accordance with the procedure set forth in Health and Safety Codes sections 34181, subdivision (a), and 34181, subdivision (f), subject to the following terms and conditions:

i. The Successor Agency shall dedicate and transfer to the City full title to the real property listed in Schedule 1(a) by grant deed or quitclaim, in the City's discretion.

ii. The Successor Agency shall dedicate and transfer to the City full title to the real property set forth in Schedule 1(b) by grant deed or quitclaim, in the City's discretion. The grant deed or quitclaim shall be in substantially the form attached hereto as Exhibit B, and shall incorporate expressly the following terms and conditions: (A) the real property shall be dedicated to, and held in trust by, the City solely and exclusively for non-commercial and non-residential public park and recreational purposes for the benefit of the health, comfort, and recreation of the public (the "Dedicated Purposes"); (B) the Successor Agency reserves in itself, its successors and assigns, the right to enforce the terms and conditions of this grant, which are intended by the parties to run with the land; and (C) the affected taxing entities (within the meaning of the Dissolution Legislation) are third-party beneficiaries of this grant of real property with the right to enforce the terms and conditions of this grant. The Successor Agency shall offer to the affected taxing entities an assignment of the Successor Agency's rights and interest reserved in itself under the grant deed conveying the real property described in this Section 1(a)(ii) of this Agreement, including, but not limited to, the right to enforce the terms of the grant and the restrictions upon the real property provided therein, in substantially the form of the Assignment of Grant Deed attached hereto as Exhibit C. The foregoing terms and conditions imposed on this dedication of real property are intended to ensure the real property is used consistent with the Dedicated Purposes. This Section shall be subject to judicial enforcement in accordance this Agreement and applicable law.

iii. The Successor Agency shall grant the City full title to the non-real property capital assets and improvements listed on Schedule 2, in a manner to be determined by the City.

iv. The Successor Agency shall transfer the real property and improvements listed on Schedules 1(a), 1(b), and 2 to the City only after the City Parties have fully and completely paid the Cash Remittance, in accordance with Section 2(a) of this Agreement.

b. Oversight Board Determination. If the Oversight Board adopts the GP Property Resolution, the Successor Agency shall electronically transmit the approved GP Property Resolution immediately thereafter to DOF. DOF agrees it shall not oppose or request further review of the Oversight Board's adoption of the GP Property Resolution, which shall become effective five (5) business days from the Successor Agency's transmission to DOF of the approved GP Property Resolution in accordance with Health and Safety Code sections 34179, subdivision (h) and 34181, subdivision (f).

c. If the Oversight Board has not adopted the GP Property Resolution by June 30, 2014, this Agreement will be of no further force or effect.

2. Return of Non-Governmental Assets. If the Oversight Board adopts the GP Property Resolution, the City Parties shall perform or cause to be performed the following actions:

a. Cash Remittance. No later than (5) business days from the Oversight Board's approval of the GP Property Resolution, the City Parties shall, in compliance with the OFA Determination, collectively remit to the Auditor-Controller the total sum of \$34,828,005.15 USD ("Cash Remittance") by direct wire transfer in accordance with the wire instructions attached hereto as Exhibit D. As shown on Exhibit E, the Cash Remittance represents the total sum of \$40,875,908 due under the OFA Determination with interest at the rate earned by funds in the Local Agency Investment Fund, calculated from February 1, 2012, to June 30, 2014, less the share of property tax revenues the City would otherwise be eligible to receive pursuant to California Health and Safety Code section 34188 on account of the Cash Remittance.

b. Real Property Conveyances. No later than (5) business days from the Oversight Board's approval of the GP Property Resolution, the City Parties shall convey to the Successor Agency, and the Successor Agency shall accept from the City Parties, full and complete titles to the real properties listed on Schedule 3 ("SA Properties").

i. The City Parties shall convey the SA Properties to the Successor Agency by grant deeds each in substantially the form attached hereto as Exhibit F.

ii. The City Parties represent and warrant that the titles to the SA Properties will be conveyed free and clear of all liens, encumbrances, claims, rights, demands, easements, leases, agreements, covenants, conditions, and restrictions of any kind except those existing prior to January 1, 2011.

iii. The City Parties represent and warrant that there are not pending any special assessments or condemnation actions with respect to any of the SA Properties or any part of the SA Properties, nor have the City Parties any knowledge of any special assessments or condemnation actions being contemplated.

iv. The City Parties represent and warrant that the grant deeds to the SA Properties and all related documents to be delivered by the City Parties to the Successor Agency (A) have been or will have been, prior to delivery to the Successor Agency, duly authorized and executed by the City Parties; and (B) are or shall be (1) legal and binding obligations of the City Parties, (2) sufficient to convey title to all SA Properties, (3) enforceable in accordance with their respective terms and conditions, and (4) not in, or not to be in, violation of any provisions of any agreements to which the City Parties are a party.

v. The City Parties represent and warrant that the City Parties know of no fact or combination of facts, nor have the City Parties misrepresented any fact, which would prevent the Successor Agency from using or operating the SA Properties in the manner in which the SA Properties are currently being used and operated.

vi. The City Parties represent and warrant that there are no outstanding contracts made by the City Parties for any improvements to the SA Properties that have not been fully paid for.

3. Disposition of Additional Real Property and Capital Assets. Following full performance of Sections 1 and 2 of this Agreement, the Parties agree to these additional actions and terms:

a. Property Retained by MHA.

i. The real property located generally at 1432-1440 South Main Street, City of Milpitas, County of Santa Clara, commonly known as Assessor Parcel No. 086-22-031, shall be retained by MHA as the entity assuming the housing functions of the MRDA. MHA represents and warrants that this real property shall be held, used, managed, maintained, operated and committed in a manner that is consistent with and fulfills the purposes of the Low and Moderate Income Housing Asset Fund in accordance with applicable housing-related provisions of the Community Redevelopment Law (Health & Saf. Code § 33000 et seq.) and the Dissolution Legislation.

ii. The real property located generally at 1452-1474 South Main Street, City of Milpitas, County of Santa Clara, commonly known as Assessor Parcel Nos. 086-22-029 and 086-22-030, shall be retained by MHA, which received this real property from MEDC. The Parties agree that the real property is not subject to the housing-related provisions of the Community Redevelopment Law and the Dissolution Legislation.

b. Property Retained by MEDC. The real property consisting of approximately 10.89 acres of land commonly known as Assessor Parcel Nos. 86-41-016, 86-41-017, and 86-41-018 (collectively, the "McCandless Property") shall be retained by MEDC.

c. Notices of Pending Action. Within five (5) business days following receipt by the County Auditor-Controller of the Cash Remittance described in Section 2(a), above, the County and SCCOE will withdraw the Notices of Pending Action they recorded and filed in this action with respect to (i) all real property and capital improvements listed on Schedules 1 and 2 of this Agreement; (ii) the real property located generally at 1432-1440 South Main Street; (iii) the real property located generally at 1452-1474 South Main Street; and (iv) the McCandless Property.

d. Creation of Long Range Property Management Plan. The Successor Agency and the County shall each use best efforts to expeditiously and cooperatively work in good faith to jointly prepare and submit the long range property management plan ("LRPMP") to the Oversight Board for review and approval, all pursuant to Health and Safety Code section 34191.5. The Successor Agency and County intend and will work together to present this plan to the Oversight Board not later than ninety (90) business days following the City Parties' full compliance with Section 2 of this Agreement and the Successor Agency's receipt of the Finding of Completion (as defined below in Section 4(b) of this Agreement). The County and the City Parties represent, warrant, and agree to jointly present the Oversight Board with an LRPMP containing all of the following recommendations:

i. The real properties listed on Schedule 4 to this Agreement shall be designated for sale under Health and Safety Code section 34191.5, subdivision (c)(2)(B), to be liquidated in a manner that maximizes the financial returns to the affected taxing entities on account of such liquidations.

ii. The real properties listed on Schedule 5 to this Agreement shall be disposed of as determined by the Oversight Board.

e. Implementation of the Long Range Property Management Plan. If the Oversight Board approves, and as anticipated, the DOF does not object to, the LRPMP as jointly presented by the City Parties and the County, the City Parties represent, warrant, and agree to take all actions necessary for and to fully cooperate with the implementation of the recommendations set forth in Subsection 3(d) of this Agreement, including making best efforts to cooperate with the sale of any properties designated for sale to maximize the financial returns to the affected taxing entities on account of such liquidations.

4. Effect of Settlement under Dissolution Legislation.

a. Distribution of Cash Remittance. The City represents, warrants, and agrees it hereby waives, and the Auditor-Controller hereby agrees to withhold, the share of property tax revenues that the City would otherwise be eligible to receive pursuant to Health and Safety Code section 34188 on account of the Cash Remittance. The City further represents, warrants, and agrees that the share of property tax revenues hereby waived by the City pursuant to this Subsection 4(a) shall be distributed to the remaining affected taxing entities as shown on Exhibit E. Within five (5) business days of receipt of the Cash Remittance, the Auditor-Controller shall distribute the Cash Remittance to the affected taxing entities using the methodology for allocation and distribution of property tax revenues provided in Health and Safety Code section 34188, subject to the City's waiver of its share of property tax as set forth in this Subsection 4(a) of this Agreement.

b. Finding of Completion. Within five (5) business days of the City Parties' full and complete payment of the Cash Remittance to the Auditor-Controller pursuant to Section 2(a) of this Agreement, and upon electronic notification by the Auditor-Controller to DOF of the City Parties' full and complete payment of the Cash Remittance, DOF shall issue to the Successor Agency a finding of completion ("Finding of Completion") of the requirements of Health and Safety Code section 34179.6, in accordance with Health and Safety Code section 34179.7.

c. Property Conveyances to City Parties.

(i) The City Parties each and collectively acknowledge and agree that the conveyances and dispositions of real properties and capital assets set forth in Sections 1, 3(a), and 3(b) of this Agreement are expressly conditioned upon the City Parties' waiver of the right to claim as an enforceable obligation payable on a Recognized Obligation Payment Schedule ("ROPS") an alleged obligation that arises from, or in any way relates to, the real properties and capital assets, including, by not limited to: (A) the intrafund transfer of \$1,800,000 from the Housing Reserve Special Revenue Fund to the Redevelopment Project Capital Projects Fund as further described in paragraphs 81 through 95 of the County Action, and (B) the real property sale and leaseback transaction and "Loan Agreement" as further described and defined in paragraphs 22 through 35 of the County Action.

(ii) The Parties agree not to dispute that the real property located generally at 1432-1440 South Main Street and held by the MHA pursuant to Subsection 3(a) of this Agreement is an MRDA "housing asset" within the meaning of Health and Safety Code section 34176, subdivision (e), that was properly transferred to the MHA.

d. Compliance with Dissolution Legislation. The Parties agree that full and complete payment of the Cash Remittance in accordance with Section 2(a) of this Agreement, and the transfer of the SA Properties in accordance with Section 2(b) of this Agreement, and retention by MHA of the real property located generally at 1432-1440 South Main Street in accordance with Sections 3(a)(i) and 4(c)(ii) of this Agreement, shall constitute full compliance by the City Parties with (i) the requirement under the Dissolution Legislation to remit all non-housing uncommitted or unobligated cash and cash-equivalent balances determined in accordance with Health and Safety Code sections 34179.6 and 34183.5, (ii) the State Controller's Order, and (iii) the DOF's OFA Determination.

e. Specific Further Actions. The Parties represent, warrant, and agree that each of them shall in good faith perform all necessary actions and provide all documents in furtherance of each Party's obligations under the provisions of Sections 1, 2, and 4 of this Agreement, including, but not limited to, such actions requiring approval of the Oversight Board and the actions taken thereby. Except as provided by this Agreement, nothing provided herein shall modify or relieve the Parties of their existing and future obligations under the Dissolution Legislation.

5. Dismissal of Actions. Pursuant to Code of Civil Procedure section 664.6, the Parties request and agree that the court shall retain jurisdiction over the Parties to enforce this stipulated settlement until there is full performance of the terms herein. If the Parties fully and completely carry out the obligations set forth in Sections 1 and 2 of this Agreement, then no later than thirty (30) business days after issuance by DOF of the Finding of Completion, the Parties shall execute and file with the court a stipulation and proposed order for dismissal of the Actions, including all cross-actions, with prejudice, that shall place this Agreement on record before the court and expressly request that the court retain jurisdiction to enforce the terms of this Agreement pursuant to Code of Civil Procedure section 664.6. Before and after dismissal of these Actions, any Party may bring a motion in accordance with section 664.6 of the Code of Civil Procedure to enforce this Agreement.

6. Release. Except for the rights and duties set forth in this Agreement and except those provisions that survive termination, cancellation, or expiration of this Agreement, the Parties, individually and on behalf of each of their officials, employees, heirs, estates, executors, administrators, assigns, agents, representatives, insurers, and attorneys, hereby forever release and fully discharge one another and each of their officials, employees, heirs, estates, executors, administrators, assigns, agents, representatives, insurers, and attorneys from any and all claims and causes of action asserted in the Actions, the State Controller's Order, the DOF OFA Determination, and any claims contesting previous DOF ROPS determinations. This section is not intended to prejudice any future DOF determinations.

7. Waiver of Civil Code Section 1542. The Parties each acknowledge that they are familiar with California Civil Code section 1542. This Agreement is intended to release the claims and causes of action described in Sections 5 and 6 above, and the Parties hereby expressly waive the provisions of California Civil Code section 1542 only with respect to the claims and causes of action described in Sections 5 above and 6. California Civil Code section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

8. General Provisions.

a. Integration. The terms of this Agreement are contractual, and not merely recital, and constitute a fully binding and complete agreement between the Parties regarding its subject matter. This Agreement supersedes any and all prior or contemporaneous agreements, representations, and understandings of or between the Parties, and the Parties each warrant that they are not relying on any such prior representations.

b. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision in this Agreement or any of the rights and obligations of the Parties.

c. Exhibits and Schedules. All exhibits and schedules referred to herein are attached to this Agreement and incorporated by reference.

d. Ambiguities. Each Party and its attorney cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party.

e. Amendments. The terms of this Agreement may not be altered, amended, modified, or otherwise changed in any respect except by a writing duly executed by all Parties.

f. California Law. This Agreement shall be interpreted in accordance with and governed by the laws of the State of California, and all Parties submit to exclusive jurisdiction and venue of the Superior Court of California, County of Sacramento with respect to any dispute about this Agreement.

g. Additional Acts. The Parties agree to do such acts and to execute such documents as are necessary to carry out the terms and purposes of this Agreement.

h. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties' successors, assigns, agents, and representatives.

i. Authority to Execute Agreement. By signing below, each signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

j. Attorney's Fees and Costs. The Parties agree that each Party hereto shall bear its own attorney's fees and costs incurred in connection with the Actions and/or the events that are the subject of the Actions, and each Party waives any claim for attorney's fees or costs against any other Party.

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k. Counterparts. This Agreement may be executed by the Parties in counterparts, each of which is deemed an original and all which constitute only one agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement as of the Effective Date.

MILPITAS ECONOMIC DEVELOPMENT CORPORATION

By: _____
Thomas C. Williams
President

CITY OF MILPITAS

By: _____
Thomas C. Williams
City Manager

SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS

By: _____
Thomas C. Williams
Executive Director

MILPITAS HOUSING AUTHORITY

By: _____
Thomas C. Williams
Executive Director

JOHN CHIANG IN HIS OFFICIAL CAPACITY AS CALIFORNIA STATE CONTROLLER

By: _____
Rick Chivaro
Chief Counsel

COUNTY OF SANTA CLARA

By: _____
James R. Williams 6/17/14
Deputy County Executive

EMILY HARRISON IN HER OFFICIAL CAPACITY AS THE SANTA CLARA COUNTY AUDITOR-CONTROLLER

By: _____
Emily Harrison
Santa Clara County Auditor-Controller

SANTA CLARA COUNTY OFFICE OF EDUCATION

By: _____
Maribel Medina
General Counsel

MICHAEL COHEN IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE STATE OF CALIFORNIA DEPARTMENT OF FINANCE

By: _____
Jennifer Rockwell
Chief Counsel

Approved as to Form and Legality

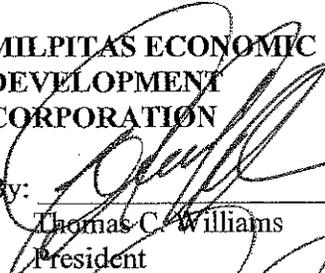
Deputy County Counsel

Date June 17, 2014

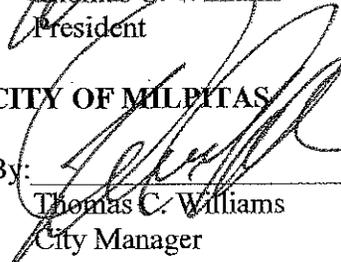
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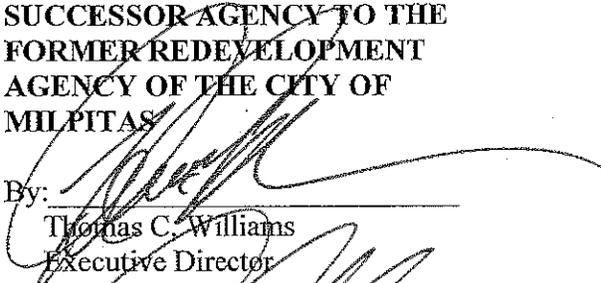
MILPITAS ECONOMIC DEVELOPMENT CORPORATION

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President

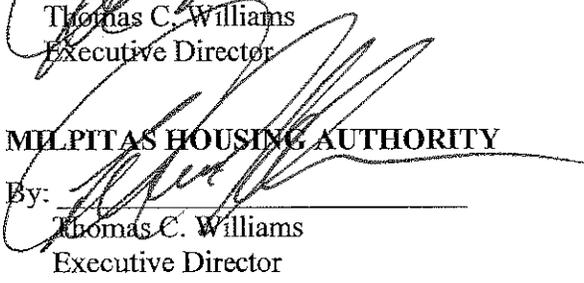
CITY OF MILPITAS

By: 
Thomas C. Williams
City Manager

SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS

By: 
Thomas C. Williams
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By: _____
Rick Chivaro
Chief Counsel

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James R. Williams
Deputy County Executive

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By: _____
Emily Harrison
Santa Clara County Auditor-Controller

SANTA CLARA COUNTY OFFICE OF EDUCATION

By: _____
Maribel Medina
General Counsel

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By: _____
Jennifer Rockwell
Chief Counsel

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SANTA CLARA COUNTY OFFICE OF EDUCATION

By: _____
Maribel Medina
General Counsel

MICHAEL COHEN IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE STATE OF CALIFORNIA DEPARTMENT OF FINANCE

By: _____
Jennifer Rockwell
Chief Counsel

k. Counterparts. This Agreement may be executed by the Parties in counterparts, each of which is deemed an original and all which constitute only one agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement as of the Effective Date.

**MILPITAS ECONOMIC
DEVELOPMENT
CORPORATION**

By: _____
Thomas C. Williams
President

CITY OF MILPITAS

By: _____
Thomas C. Williams
City Manager

**SUCCESSOR AGENCY TO THE
FORMER REDEVELOPMENT
AGENCY OF THE CITY OF
MILPITAS**

By: _____
Thomas C. Williams
Executive Director

MILPITAS HOUSING AUTHORITY

By: _____
Thomas C. Williams
Executive Director

**JOHN CHIANG IN HIS OFFICIAL
CAPACITY AS CALIFORNIA STATE
CONTROLLER**

By: _____
Rick Chivaro
Chief Counsel

COUNTY OF SANTA CLARA

By: _____
James R. Williams
Deputy County Executive

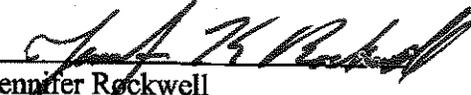
**EMILY HARRISON IN HER
OFFICIAL CAPACITY AS THE
SANTA CLARA COUNTY AUDITOR-
CONTROLLER**

By: _____
Emily Harrison
Santa Clara County Auditor-Controller

**SANTA CLARA COUNTY OFFICE OF
EDUCATION**

By: _____
Maribel Medina
General Counsel

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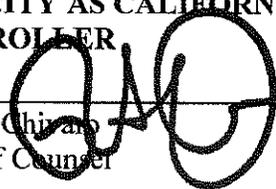
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STATE OF CALIFORNIA
DEPARTMENT OF FINANCE**

By: _____
Jennifer Rockwell
Chief Counsel

SCHEDULE 1
Government Use Real Properties

(a) Section 1(a)(i) GP Property

APN	Address	Description
022-02-047	1271-1275 N. Milpitas Blvd., City of Milpitas	Police Station HQ Public Works HQ
086-02-061	775 Barber Lane, City of Milpitas	Fire Station #4
028-24-044	160 N. Main Street, City of Milpitas	Library and Garage
086-11-008	777 S. Main Street, City of Milpitas	Fire Station #1
026-13-033	45 Midwick Drive, City of Milpitas	Fire Station #3
028-12-023	40 N. Milpitas Blvd., City of Milpitas	Community and Senior Center
022-02-012	1265 N. Milpitas Blvd., City of Milpitas	Corporation Yard

(b) Section 1(a)(ii) GP Property

APN	Address	Description
029-17-004 to - 013 and 029-17- 015	1325 E. Calaveras Blvd., City of Milpitas	Milpitas Sports Center and Open Space

SCHEDULE 2
Government Purpose Non-Real Property Capital Assets

Asset Description	Parcel #/Project #	Amount
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-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

Settlement Agreement

Case No. 34-2013-80001436

Case No. 34-2013-80001508

ATTACHMENT B

Asset Description	Parcel #/Project #	Amount
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
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-Bart Extension Coordination & Planning	CP8164	472,418
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-Green Facility Study	CP8190	72,973
CIP-Park Master Plan Improvement	CP8191	466
CIP-Carlo Street Ramp Project	CP8195	602,812
CIP-Sound wall 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

Settlement Agreement

Case No. 34-2013-80001436

Case No. 34-2013-80001508

SCHEDULE 3
Section 2(b) Real Properties

APN	Address	Description
028-24-025	86 N. Main Street, City of Milpitas	Vacant land
028-34-001 through 028-34-094	230 N. Main Street, City of Milpitas	Vacant land
022-08-003	96 N. Main Street, City of Milpitas	County Health Center Parking Garage
086-10-025	540 S. Abel Street, City of Milpitas	Cracolice Building

SCHEDULE 4
Section 3(d)(i) Real Property

APN	Address	Description
028-24-025	86 N. Main Street, City of Milpitas	Vacant land
086-02-086	Alder Drive and Barber Lane, City of Milpitas	Vacant land
028-34-001 through 028-34-094	230 N. Main Street, City of Milpitas	Vacant land

SCHEDULE 5
Section 3(d)(ii) Real Property

APN	Address	Description
022-08-003	96 N. Main Street, City of Milpitas	County Health Center Parking Garage
086-10-025	540 S. Abel Street, City of Milpitas	Cracolice Building

ATTACHMENT B

EXHIBIT A
GP PROPERTY RESOLUTION

RESOLUTION NO. _____

**RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO
THE FORMER MILPITAS REDEVELOPMENT AGENCY APPROVING THE
TRANSFER OF GOVERNMENT PURPOSE PROPERTY**

WHEREAS, California Health and Safety Code section 34181(a) provides that the Oversight Board may direct the Successor Agency (the "Successor Agency") to the former Redevelopment Agency of the City of Milpitas to transfer ownership of 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 assets; and

WHEREAS, the Successor Agency holds title to the (i) real property listed in Schedule Y, attached hereto and incorporated herein by this reference, and (ii) non-real property capital assets and improvements listed in Schedule Z, attached hereto and incorporated herein by this reference (collectively, the "Government Purpose Properties"); and

WHEREAS, the City and the County have provided the Oversight Board with the Settlement Agreement ("Settlement Agreement"), dated June 17, 2014, by and among the County of Santa Clara and Emily Harrison, in her capacity as Santa Clara County Auditor-Controller (collectively, "County"); the Santa Clara County Office of Education; John Chiang, in his official capacity as California State Controller; the California Department of Finance and Michael Cohen, in his official capacity as Director of the California Department of Finance; the Milpitas Economic Development Corporation ("MEDC"); the City of Milpitas (the "City"); the Successor Agency; and the Milpitas Housing Authority (the "MHA," and collectively with the City, Successor Agency, and the MEDC, the "City Parties"); and

WHEREAS, pursuant to the Settlement Agreement, the County and the City Parties have jointly recommended that the Governmental Purpose Assets be transferred for government purposes pursuant to Section 1(a) of the Settlement Agreement, only if and after the City Parties have fully and completely performed its obligations under Section 2(a) of the Settlement Agreement; and

WHEREAS, the Oversight Board has duly noticed and convened a public meeting in accordance with Health and Safety Code section 34181(f) and considered the recommendations of the County, the City Parties, the public, and the information presented to the Oversight Board concerning the Government Purpose Properties and has determined the Government Purpose Properties to be used and constructed for a governmental purpose and appropriate for transfer in accordance with Health and Safety Code section 34181(a) in the manner recommended by the City Parties and the County.

NOW THEREFORE, THE OVERSIGHT BOARD DOES HEREBY RESOLVE, after consideration of staff presentations, reports, discussions, public comments, and other evidence presented, that the Oversight Board hereby finds and declares that the following:

1. The foregoing recitals are true and correct and incorporated herein.
2. The requirements of Health & Safety Code Section 34181(f) have been satisfied, in that the Oversight Board has held a public meeting to consider the transfer of the Government Purpose Properties from the Successor Agency to the City, ten (10) days public notice of said transfers was provided, and members of the public have been given an opportunity to comment on the transfer of the Governmental Purpose Assets.
3. All of the Government Purpose Properties constitute "governmental purpose" properties and the City is the "appropriate public jurisdiction" to which the Government Purpose Properties should be transferred in accordance with subdivision (a) of Health & Safety Code Section 34181.
4. The Oversight Board has considered the proposed terms and conditions for the transfer of the Government Purpose Properties set forth in Section 1(a) of the Settlement Agreement and finds these terms and conditions, which are incorporated into this Resolution by reference herein, are consistent with the goals of the Dissolution Legislation and the best interests of the affected taxing entities and the public.

BE IT FURTHER RESOLVED that the Oversight Board directs the Successor Agency as follows:

1. Only if and after the City Parties have fully and completely paid the Cash Remittance (as defined in the Settlement Agreement), in accordance with Section 2(a) of the Settlement Agreement, the Successor Agency shall transfer the Government Purpose Properties in the manner specified in Section 1(a) of the Settlement Agreement; provided, the Successor Agency shall reserve in itself, its successors and assigns, the right to enforce the terms and conditions of the dedication of the real property set forth in Section 1(a)(ii) of the Settlement Agreement.
2. The Successor Agency shall offer to the affected taxing entities an assignment of the Successor Agency's rights reserved in itself pursuant to the grant deed conveying the real property described in this Section 1(a)(ii) of the Settlement Agreement, including, but not limited to, the right to enforce the terms of the grant deed and the restrictions upon the real property provided therein.
3. The Successor Agency staff is authorized and directed to take all necessary actions to transfer of ownership of the Government Purpose Properties in accordance with Section 1(a) of the Settlement Agreement.

BE IT FURTHER RESOLVED that the Successor Agency staff is hereby directed to immediately electronically transmit this approved Resolution to the California Department of Finance in compliance with Health and Safety Code section 34179(h).

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BE IT FURTHER RESOLVED that the Clerk of the Oversight Board shall certify to the passage and adoption of this Resolution, and it shall become effective immediately as provided in Health and Safety Code section 34179(h).

PASSED AND ADOPTED this 19th day of June, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

, Oversight Board Secretary

, Chair

**SCHEDULE Y
GOVERNMENT PURPOSE REAL PROPERTIES**

(a)

APN	Address	Description
022-02-047	1271-1275 N. Milpitas Blvd., City of Milpitas	Police Station HQ Public Works HQ
086-02-061	775 Barber Lane, City of Milpitas	Fire Station #4
028-24-044	160 N. Main Street, City of Milpitas	Library and Garage
086-11-008	777 S. Main Street, City of Milpitas	Fire Station #1
026-13-033	45 Midwick Drive, City of Milpitas	Fire Station #3
028-12-023	40 N. Milpitas Blvd., City of Milpitas	Community and Senior Center
022-02-012	1265 N. Milpitas Blvd., City of Milpitas	Corporation Yard

(b)

APN	Address	Description
029-17-004 to - 013 and 029-17- 015	1325 E. Calaveras Blvd., City of Milpitas	Milpitas Sports Center and Open Space

**SCHEDULE Z
GOVERNMENT PURPOSE CAPITAL ASSETS**

Asset Description	Parcel #/Project #	Amount
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
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Mach & Equip-Computer Master Plan	CP8020E	0.00
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ATTACHMENT B

Asset Description	Parcel #/Project #	Amount
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Mach & Equip-New Finance System	CP8107	2,631,679
Mach & Equip-Network Hardware & Software	CP8108E	0.00
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CIP-KP Infrastructure	CP-KB Dev	538,003
CIP-KP Infrastructure	CP-KB Dev	716
CIP-KP Infrastructure	CP-KB Dev	2,679,063

ATTACHMENT B

EXHIBIT B
SECTION 1(a)(ii) DEED

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

Document entitled to free recordation
Pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 029-17-004 to -013 and 029-17-015
County of Santa Clara

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the Successor Agency (the "Grantor") to the Redevelopment Agency of the City of Milpitas, a public entity established under California Health and Safety Code section 34173, hereby conveys to the City of Milpitas (the "Grantee"), a California charter city and municipal corporation, the real property in the City of Milpitas, County of Santa Clara, California, described on attached Exhibit A, together with building and other improvements located on said real property, and all rights, privileges, easements and appurtenances thereto, including without limitation all mineral and water rights, appurtenant easements, rights-of way and other appurtenances used in connection with or relating to such real property, buildings, structures and other improvements (the "Property").

This conveyance is made by Grantor and accepted by Grantee subject to all recitals, covenants, terms, conditions, and restrictions hereto and made part hereof.

RECITALS

WHEREAS, Grantor holds title to the Property as successor agency to the former Redevelopment Agency of the City of Milpitas pursuant to Assembly Bill X1 26 (2011), later modified by Assembly Bill 1484 (2012) (collectively, the "Dissolution Legislation"); and

WHEREAS, in accordance with Health and Safety Code section 34181(a), the Oversight Board to Grantor authorized and directed Grantor to grant the Property to Grantee in the manner set forth in section 1(a)(ii) of that certain Settlement Agreement ("Settlement Agreement"), dated June 17, 2014, by and among the County of Santa Clara and Emily Harrison, in her capacity as Santa Clara County Auditor-Controller (collectively, "County"); the Santa Clara County Office of Education; John Chiang, in his official capacity as California State Controller; the California Department of Finance and Michael Cohen, in his official capacity as Director of the California Department of Finance; the Milpitas Economic Development Corporation ("MEDC"); Grantee; Grantor; and the Milpitas Housing Authority; and

WHEREAS, pursuant to section 1(a)(ii) of the Settlement Agreement, the Grantor shall grant the Property to the Grantee shall accept the Property subject to the terms, conditions, and restrictions set forth therein; and

WHEREAS, the Settlement Agreement is incorporated by this reference into this Grant Deed as if fully set forth herein.

COVENANTS, TERMS, CONDITIONS, AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor grants and conveys to Grantee, the Property as subject to the following covenants, terms, conditions, and restrictions in perpetuity for the benefit Grantor, its successors and assigns.

1. Dedicated Purposes. The Property is to be dedicated to, and held in trust by, the City solely and exclusively for non-commercial and non-residential public park and recreational purposes for the benefit of the health, comfort, and recreation of the public (the "Dedicated Purposes"). Any activity on or use of the Property inconsistent with the Dedicated Purposes and the terms of this Grant Deed is prohibited. By accepting this Grant Deed, Grantee agrees to be bound by, all the covenants, terms, conditions, and restrictions set forth in this Grant Deed.

2. Enforcement of Grant Deed.

a. Grantor's Reserved Rights and Duties. To accomplish the purposes of this Grant Deed, Grantor hereby reserves unto itself, its successors, and assigns, the right to monitor compliance with and otherwise enforce the terms of this Grant Deed. Grantor shall undertake all reasonable actions to ensure the Property is used in accordance with this Grant Deed.

b. Grantor's Remedies. Grantee agrees the Grantor's remedies at law for any violation of this Grant Deed are inadequate and that Grantor shall be entitled to the injunctive relief, both prohibitive and mandatory, in addition to such other relief to which Grantor may be entitled, including specific performance of the Grant Deed, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantor's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

c. Enforcement; Standing. All rights and remedies reserved by Grantor under this Grant Deed shall extend to and or enforceable by any of the Third-Party Beneficiaries (as defined in Section 5 of this Grant Deed) and are intended by the parties to run with the land. The enforcement rights are in addition to, and do not limit, the rights of enforcement under the Settlement Agreement.

d. Grantor's Discretion. Enforcement of the terms of this Grant Deed by Grantor shall be at the discretion of Grantor, and any forbearance by Grantor to exercise its rights under this Grant Deed in the event of any breach of any term of this Grant Deed against Grantee shall not be deemed or construed to be a waiver of such term or of any such subsequent breach of the same or any other term of this Grant Deed or of any of the rights of Grantor under this Grant Deed. No delay or omission by Grantor in the exercise of any right or remedy shall impair such right or remedy to be construed as a waiver.

3. Transfer of Grant Deed.

a. Grantee acknowledges and agrees that Grantor may assign or transfer this Grant Deed.

b. Grantee agrees to incorporate the terms of this Grant Deed by reference in any deed or other legal instrument by which Grantee divest itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantee further agrees to provide written notice to Grantor of its intent to transfer any interest at least sixty (60) days prior to the date of such transfer. The failure of Grantor or Grantee to perform any act provided in this Section shall not impair the validity of this Grant Deed or limit its enforceability in any way.

4. Amendment. The condition of this Grant Deed may be amended only by mutual written agreement of Grantor and Grantee with written approval by the Third-Party Beneficiaries. Any such amendment shall be consistent with the purposes of this Grant Deed and California law and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Santa Clara County, State of California.

5. Third-Party Beneficiaries. Grantor and Grantee acknowledge and agree that the affected taxing entities (within the meaning of the Dissolution Legislation and as of the date of this Grant Deed) are each a third-party beneficiary of this Grant Deed and the covenants, terms, conditions, and restrictions provided herein, with the right to enforce all obligations of Grantee.

6. Addition Provisions.

a. Liberal Construction. Despite any general rule of construction to the contrary, this Grant Deed shall be liberally construed to effect the purposes of this Grant Deed. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purposes of this Grant Deed that would render the provisions valid shall be favored over any interpretation that would render it invalid.

b. Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Grant Deed, such action shall not affect the remainder of this Grant Deed.

c. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Grant Deed and supersedes all prior discussions, negotiations, understandings, or agreements related to the Grant Deed.

d. Successors and Assigns. Grantee acknowledge that Grantor is a public entity formed pursuant to Health and Safety Code section 34173 that will be dissolved in accordance with the Dissolution Legislation. Grantee and Grantor acknowledge and agree Grantor's rights shall be assigned prior to its dissolution in accordance with section 1(a)(ii) of the Settlement Agreement.

e. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not part of this instrument and shall have no effect upon its construction or interpretation.

//

//

//

//

f. Recording. Grantee shall record this Grant Deed in the Official Records of Santa Clara County, California.

IN WITNESS WHEREOF, the Grantor has executed this Grant Deed on ____ day of _____, 2014.

**SUCCESSOR AGENCY TO THE FORMER
REDEVELOPMENT AGENCY OF THE CITY
OF MILPITAS**

By: _____
Thomas C. Williams
Executive Director

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY SANTA CLARA)

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)

ATTACHMENT B

**EXHIBIT C
ASSIGNMENT OF BENEFICIAL INTEREST
IN GRANT DEED**

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

Document entitled to free recordation
Pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 029-17-004 to -013 and 029-17-015
County: Santa Clara

ASSIGNMENT OF BENEFICIAL INTEREST IN GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the Successor Agency ("Grantor") to the former Redevelopment Agency of the City of Milpitas, a public entity established under California Health and Safety Code section 34173, hereby grants, assigns, and transfers to _____, a _____ ("Grantee"), all of Grantor's beneficial interest under that certain Grant Deed ("Grant Deed"), dated _____, executed by Grantor and the City of Milpitas ("City"), and in which Grantee is named as a third-party beneficiary, attached hereto as Exhibit A, and recorded on _____, in the official records of the Santa Clara County Office of the Clerk-Recorder, conveying the real property commonly known as 1325 E. Calaveras Blvd., in the City of Milpitas, County of Santa Clara, and as further described on the Grant Deed.

IN WITNESS WHEREOF, this Assignment of Grant Deed is executed this ___ day of June 2014.

**SUCCESSOR AGENCY TO THE FORMER
REDEVELOPMENT AGENCY OF THE CITY
OF MILPITAS**

By: _____
Thomas C. Williams
City Manager

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY SANTA CLARA)

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)

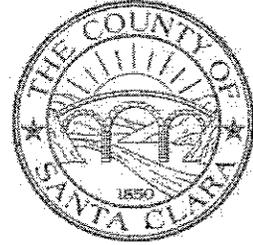
ATTACHMENT B

EXHIBIT D
WIRE INSTRUCTIONS

County of Santa Clara

Finance Agency
Controller-Treasurer

County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5206 FAX 287-7629



SANTA CLARA COUNTY WIRE INSTRUCTIONS

Bank of America
275 S. Valencia Avenue
Brea, CA 92823

ABA:

✓ Wire Transfer- 026009593

Beneficiary:

County of Santa Clara
Account # 1499822468

ATTACHMENT B

EXHIBIT E
CASH REMITTANCE AND DISTRIBUTION

ATTACHMENT B

Other Funds and Accounts Distribution

		Total OAF amount plus Interest upto 6/30/2014	Amount MI SA need to remit [Net of Milpitas city's share]
		41,089,230.87	34,828,005.15
FY2013-14	OAF Apportionment Factor	Amt to be distributed	Distribution
Santa Clara County	0.13310542	5,469,199.43	5,469,199.43
Santa Clara County Library	0.02428119	997,695.50	997,695.50
Milpitas City	0.15238119	6,261,225.72	- [for redistribution]
Milpitas Unified	0.38283488	15,730,390.83	15,730,390.83
San Jose Evergreen Community College	0.06207526	2,550,624.50	2,550,624.50
County Office of Education	0.03021278	1,241,420.00	1,241,420.00
Santa Clara Valley Water District East Zone 1	0.01612835	662,701.38	662,701.38
Santa Clara Valley Water District	0.00155963	64,083.97	64,083.97
Bay Area Air Quality Management District	0.00175930	72,288.35	72,288.35
Santa Clara County Importation Water-Misc District	0.00464591	190,896.73	190,896.73
Santa Clara Valley Water District West Zone 4	0.00119751	49,204.94	49,204.94
ERAF	0.14489074	5,953,449.08	5,953,449.08
County Retirement	0.03705680	1,522,635.40	1,522,635.40
Library Retirement	0.00229217	94,183.63	94,183.63
SCVWD- State Water Project	0.00557887	229,231.41	229,231.41
		41,089,230.87	34,828,005.15
ERAF K-12	85.72%	5,103,528.74	5,103,528.74
ERAF College	14.28%	849,920.34	849,920.34
		5,953,449.08	5,953,449.08

Other Funds and Accounts Distribution		REDISTRIBUTION										CREDIT			
OAF Apportionment Factor	Amount to be distributed	5,307,132.72	808,707.18	123,231.76	18,778.20	2,861.44	436.03	66.44	10.12	1.54	0.24	0.04	0.01	6,261,225.71	DISTR
	34,828,005.15														
	4,635,796.33	706,408.14	107,843.31	16,402.82	2,499.46	380.87	58.04	8.84	1.35	0.21	0.03	0.01	0.01		
	845,665.47	128,863.51	19,686.37	2,992.21	455.96	69.48	10.59	1.61	0.25	0.04	0.01	0.00	0.00		
	5,307,132.72	808,707.18	123,231.76	18,778.20	2,861.44	436.03	66.44	10.12	1.54	0.24	0.04	0.01	0.00		
	13,333,375.22	2,031,755.52	309,601.32	47,177.42	7,188.95	1,095.46	166.93	25.44	3.88	0.59	0.09	0.01	0.00		
College	2,161,957.32	329,441.62	50,200.70	7,849.64	1,165.66	177.62	27.07	4.12	0.63	0.10	0.01	0.00	0.00		
	1,052,250.95	160,343.25	24,433.29	3,723.17	567.34	86.45	13.17	2.01	0.31	0.05	0.01	0.00	0.00		
East Zone 1	561,718.16	85,895.28	13,043.11	1,987.52	302.86	46.15	7.03	1.07	0.16	0.02	0.00	0.00	0.00		
	54,318.78	8,277.16	1,261.28	192.20	29.29	4.46	0.68	0.10	0.02	0.00	0.00	0.00	0.00		
ent District	61,272.96	9,336.85	1,422.76	216.80	33.04	5.03	0.77	0.12	0.02	0.00	0.00	0.00	0.00		
n Water-Misc District	161,807.66	24,656.44	3,757.18	572.52	87.24	13.29	2.03	0.31	0.05	0.01	0.00	0.00	0.00		
West Zone 4	41,707.03	6,355.37	968.44	147.57	22.49	3.43	0.52	0.08	0.01	0.00	0.00	0.00	0.00		
	5,046,255.45	768,954.39	117,174.18	17,855.14	2,720.79	414.60	63.18	9.63	1.47	0.22	0.03	0.01	0.00		
	1,290,614.41	196,665.35	29,968.10	4,566.57	695.86	106.04	16.16	2.46	0.38	0.06	0.01	0.00	0.00		
	79,831.82	12,164.87	1,853.70	282.47	43.04	6.56	1.00	0.15	0.02	0.00	0.00	0.00	0.00		
	194,300.86	29,607.80	4,511.67	687.49	104.76	15.96	2.43	0.37	0.06	0.01	0.00	0.00	0.00		
	34,828,005.15	5,307,132.72	808,707.18	123,231.76	18,778.20	2,861.44	436.03	66.44	10.12	1.54	0.24	0.04	0.01		
	4,326,846.98	659,177.69	100,446.28	15,306.12	2,332.37	355.41	54.16	8.25	1.26	0.19	0.03	0.00	0.00		
	720,408.47	109,776.70	16,727.90	2,549.02	388.42	59.19	9.02	1.37	0.21	0.03	0.00	0.00	0.00		
	5,046,255.45	768,954.39	117,174.18	17,855.14	2,720.79	414.60	63.18	9.63	1.47	0.22	0.03	0.01	0.00		

ATTACHMENT B

EXHIBIT F
SECTION 2(b)(i) GRANT DEED

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

Document entitled to free recordation
Pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N.
County: Santa Clara

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the City of Milpitas, a California charter city and municipal corporation, grants to the Successor Agency to the Redevelopment Agency of the City of Milpitas, a public entity established under California Health and Safety Code section 34173, the real property in the City of Milpitas, County of Santa Clara, California, described on attached Exhibit A attached hereto, together with building and other improvements located on said real property, and all rights, privileges, easements and appurtenances thereto, including without limitation all mineral and water rights, appurtenant easements, rights-of way and other appurtenances used in connection with or relating to such real property, buildings, structures and other improvements.

IN WITNESS WHEREOF, this Grant Deed is executed this ____ day of _____, 2014.

CITY OF MILPITAS

By: _____
Thomas C. Williams
City Manager

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY SANTA CLARA)

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)



June 27, 2014

Ms. Emma Karlen, Director of Financial Services
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Dear Ms. Karlen:

Subject: Finding of Completion

The California Department of Finance (Finance) has completed the Finding of Completion for the City of Milpitas Successor Agency.

Finance has completed its review of your documentation, which may have included reviewing supporting documentation submitted to substantiate payment or obtaining confirmation from the county auditor-controller. Pursuant to Health and Safety Code (HSC) section 34179.7, we are pleased to inform you that Finance has verified that the Agency has made full payment of the amounts determined under HSC section 34179.6, subdivisions (d) or (e) and HSC section 34183.5.

This letter serves as notification that a Finding of Completion has been granted. The Agency may now do the following:

- Place loan agreements between the former redevelopment agency and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes per HSC section 34191.4 (b) (1). Loan repayments will be governed by criteria in HSC section 34191.4 (a) (2).
- Utilize proceeds derived from bonds issued prior to January 1, 2011 in a manner consistent with the original bond covenants per HSC section 34191.4 (c).

Additionally, the Agency is required to submit a Long-Range Property Management Plan to Finance for review and approval, per HSC section 34191.5 (b), within six months from the date of this letter.

Please direct inquiries to Derk Symons, Staff Finance Budget Analyst, or Chris Hill, Principal Program Budget Analyst, at (916) 445-1546.

Sincerely,

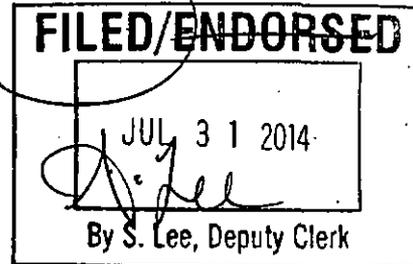
JUSTYN HOWARD

Assistant Program Budget Manager

cc: Ms. Jane Corpus Takahashi, Finance Manager, City of Milpitas
Ms. Irene Lui, Controller Treasurer, Santa Clara County
California State Controller's Office

1 ORRY P. KORB, County Counsel (S.B. #114399)
STEVE MITRA, Assistant County Counsel (S.B. #244054)
2 E. RAY RUIZ, Deputy County Counsel (S.B. #244896)
OFFICE OF THE COUNTY COUNSEL
3 70 West Hedding Street, East Wing, Ninth Floor
San Jose, California 95110-1770
4 Telephone: (408) 299-5900
Facsimile: (408) 292-7240
5 edward.ruiz@cco.sccgov.org

6 Attorneys for Petitioners and Plaintiffs
COUNTY OF SANTA CLARA,
7 EMILY HARRISON, in her official capacity as the
County of Santa Clara Auditor-Controller, and
8 SANTA CLARA COUNTY OFFICE OF EDUCATION



9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SACRAMENTO**

12 COUNTY OF SANTA CLARA and VINOD K.
SHARMA, in his official capacity as the Santa
13 Clara County Auditor-Controller and SANTA
CLARA COUNTY OFFICE OF EDUCATION;

14 **Petitioners and Plaintiffs,**

15 v.

16 MILPITAS ECONOMIC DEVELOPMENT
CORPORATION, a California non-profit public
benefit corporation; CITY OF MILPITAS, a
17 California municipal corporation; SUCCESSOR
AGENCY TO THE FORMER
18 REDEVELOPMENT AGENCY OF THE CITY
OF MILPITAS; MILPITAS HOUSING
19 AUTHORITY, a California local public agency;
and DOES 1-50 inclusive,

20 **Respondents and Defendants,**

21 JOHN CHIANG, in his official capacity as State
Controller; ANA J. MATOSANTOS in her
22 official capacity as Director of the California
Department of Finance; the CALIFORNIA
23 DEPARTMENT OF FINANCE; ROES 1-50
inclusive,

24 **Real Parties in Interest.**

No. 34-2013-80001436

[Related to Case No. 34-2013-80001508]

Assigned for all Purposes to the Honorable
Michael Kenny, Dept. 31

**STIPULATION AND [PROPOSED] ORDER
FOR DISMISSAL WITH RETENTION OF
JURISDICTION; EXHIBIT**

Exempt from Filing Fee (Gov. Code, § 6103)

Action Filed: March 12, 2013

BY FAX

25
26
27
28
Stipulation and [Proposed] Order for
Dismissal with Retention of Jurisdiction;
Exhibit

34-2013-80001436

1 The SUCCESSOR AGENCY TO THE MILPITAS REDEVELOPMENT AGENCY, the
2 CITY OF MILPITAS, the MILPITAS HOUSING AUTHORITY, the MILPITAS ECONOMIC
3 DEVELOPMENT CORPORATION, JOHN CHIANG (in his official capacity as Controller of the
4 State of California), the CALIFORNIA DEPARTMENT OF FINANCE, MICHAEL COHEN (as
5 successor to ANA MATOSANTOS and in his official capacity as Director of the California
6 Department of Finance), and EMILY HARRISON (as Successor to VINOD K. SHARMA and in her
7 official capacity as Auditor-Controller of the County of Santa Clara) (all together, the "Parties")
8 hereby stipulate, by and through their counsel, as follows:

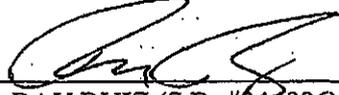
9 1. The Parties have settled this action. A true, correct, and complete copy of the
10 document memorializing this settlement is Exhibit A to this Stipulation.

11 2. The Parties wish to dismiss this action, but ask this Court under section 664.6 of the
12 Code of Civil Procedure to retain jurisdiction over this action for the sole purpose of enforcing the
13 Parties' settlement.

14 3. The Parties ask this Court to enter an appropriate order.

15
16 DATED: July 25, 2014

ORRY P. KORB, County Counsel

17
18 By: 

E. RAY RUIZ (S.B. #244896)
Deputy County Counsel
70 W. Hedding Street, 9th Floor, East Wing
San Jose, CA 95110
(408) 299-5900

19
20
21 Attorneys for Petitioners and Plaintiffs
22 COUNTY OF SANTA CLARA,
23 EMILY HARRISON, in her official capacity as the
24 Santa Clara County Auditor-Controller, and
25 SANTA CLARA COUNTY OFFICE OF
26 EDUCATION
27
28

1 DATED: July 25, 2014

GOLDFARB & LIPMAN LLP

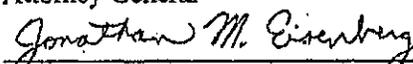
2 By: 

JULIET E. COX (S.B. #214401)
1300 Clay Street, Eleventh Floor
Oakland, CA 94612
(510) 836-6336

3
4
5 Attorneys for SUCCESSOR AGENCY TO THE
6 MILPITAS REDEVELOPMENT AGENCY, CITY
7 OF MILPITAS, MILPITAS HOUSING
8 AUTHORITY, and MILPITAS ECONOMIC
9 DEVELOPMENT CORPORATION

9 DATED: July 25, 2014

KAMALA D. HARRIS, Attorney General
MARK R. BECKINGTON, Supervising Deputy
Attorney General

10
11 By: 

JONATHAN M. EISENBERG (S.B. #184162)
Deputy Attorney General
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
(213) 897-6505

12
13
14 Attorneys for CALIFORNIA DEPARTMENT OF
15 FINANCE and MICHAEL COHEN, in his Official
16 Capacity as Director of the California Department
17 of Finance, and for JOHN CHIANG, in his Official
18 Capacity as California State Controller

18 **~~PROPOSED~~ ORDER**

19 In accordance with the Parties' Settlement Agreement, attached hereto as Exhibit A, and with
20 the Parties' Stipulation, above, this Court ORDERS as follows:

- 21 1. This action is dismissed, with prejudice, as of the date of entry of this Order.
22 2. Each Party shall bear its own costs and fees incurred to date with respect to this
23 action.
24 3. This Court retains jurisdiction over the Parties in accordance with section 664.6 of the
25 Code of Civil Procedure for the sole purpose of enforcing the Parties' settlement.

26 IT IS SO ORDERED.

27 DATED: 7/31, 2014


28 HONORABLE MICHAEL KENNY

JUDGE OF THE SUPERIOR COURT

EXHIBIT A: SETTLEMENT AGREEMENT



1 MICHAEL J. OGAZ, State Bar No. 109371
 City Attorney
 2 mogaz@ci.milpitas.ca.gov
 CITY OF MILPITAS
 3 455 E. Calaveras Blvd.
 Milpitas, California 95035
 4 Telephone: (408) 586-3040
 Facsimile: (408) 586-3056

5 JULIET E. COX, State Bar No. 214401
 6 jcox@goldfarblipman.com
 CAROLINE NASELLA, State Bar No. 287644
 7 GOLDFARB & LIPMAN LLP
 1300 Clay Street, Eleventh Floor
 8 Oakland, California 94612
 Telephone: (510) 836-6336
 9 Facsimile: (510) 836-1035

FILED/ENDORSED

JUL 30 2014

By S. Lee, Deputy Clerk

10 Attorneys for Petitioners and Plaintiffs
 SUCCESSOR AGENCY TO THE MILPITAS
 11 REDEVELOPMENT AGENCY, CITY OF
 MILPITAS, MILPITAS HOUSING
 12 AUTHORITY, and MILPITAS ECONOMIC
 DEVELOPMENT CORPORATION

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF SACRAMENTO**

16 SUCCESSOR AGENCY TO THE MILPITAS
 REDEVELOPMENT AGENCY *et al.*;

17 Petitioners and Plaintiffs,

18 v.

19 JOHN CHIANG *et al.*;

20 Respondents and Defendants.

21 JOHN CHIANG *et al.*;

22 Cross-Petitioners and Cross-Plaintiffs,

23 v.

24 SUCCESSOR AGENCY TO THE MILPITAS
 REDEVELOPMENT AGENCY *et al.*;

25 Cross-Respondents and Cross-Defendants.

Case No.: 34-2013-80001508

[Related to Case No. 34-2013-80001436]

Assigned for All Purposes to the Honorable
 Michael Kenny, Dept. 31

**STIPULATION AND ~~PROPOSED~~
 ORDER FOR DISMISSAL WITH
 RETENTION OF JURISDICTION;
 EXHIBIT**

Exempt from Filing Fee (Gov. Code, § 6103)

Action Filed: May 31, 2013
 Cross-Action Filed: July 17, 2013

Goldfarb &
 Lipman LLP
 1300 Clay Street
 Eleventh Floor
 Oakland
 California
 94612
 510 836-6336
 510 836-1035 FAX

BY FAX

1 The SUCCESSOR AGENCY TO THE MILPITAS REDEVELOPMENT AGENCY,
2 the CITY OF MILPITAS, the MILPITAS HOUSING AUTHORITY, the MILPITAS
3 ECONOMIC DEVELOPMENT CORPORATION, JOHN CHIANG (in his official capacity as
4 Controller of the State of California), MICHAEL COHEN (as successor to ANA
5 MATOSANTOS and in his official capacity as Director of the California Department of
6 Finance), and EMILY HARRISON (as successor to VINOD K. SHARMA and in her official
7 capacity as Auditor-Controller of the County of Santa Clara) (all together, the "Parties") hereby
8 stipulate, by and through their counsel, as follows:

9 1. The Parties have settled this action and its cross-action. A true, correct, and
10 complete copy of the document memorializing this settlement is Exhibit A to this Stipulation.

11 2. The Parties wish to dismiss this action and its cross-action, but ask this Court
12 under section 664.6 of the Code of Civil Procedure to retain jurisdiction over this action and its
13 cross-action for the sole purpose of enforcing the Parties' settlement.

14 3. The Parties ask this Court to enter an appropriate order.

15 DATED: July 25, 2014

GOLDFARB & LIPMAN LLP

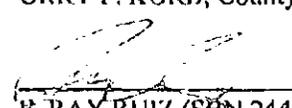
By: 

JULIET E. COX (SBN 214401)
1300 Clay Street, Eleventh Floor
Oakland, California 94612
(510) 836-6336

Attorneys for SUCCESSOR AGENCY TO THE
MILPITAS REDEVELOPMENT AGENCY,
CITY OF MILPITAS, MILPITAS HOUSING
AUTHORITY, and MILPITAS ECONOMIC
DEVELOPMENT CORPORATION

16
17
18
19
20
21
22 DATED: July 25, 2014

ORRY P. KORB, County Counsel


E. RAY RUIZ (SBN 244896)

Deputy County Counsel
70 West Hedding Street, East Wing, Ninth Floor
San Jose, California 95110-1770
(408) 299-5900

Attorneys for EMILY HARRISON, in her official
capacity as SANTA CLARA COUNTY AUDITOR-
CONTROLLER

1 DATED: July 25, 2014

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3
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Capacity as Director of the California Department of
Finance, and for JOHN CHIANG, in his Official
Capacity as California State Controller

9 **~~PROPOSED~~ ORDER**

10 In accordance with the Parties' Settlement Agreement, attached hereto as Exhibit A, and
11 with the Parties' Stipulation, above, this Court ORDERS as follows:

12 1. This action and its cross-action are dismissed, with prejudice, as of the date of
13 entry of this Order.

14 2. Each Party shall bear its own costs and fees incurred to date with respect to this
15 action and its cross action.

16 3. This Court retains jurisdiction over the Parties in accordance with section 664.6
17 of the Code of Civil Procedure for the sole purpose of enforcing the Parties' settlement.

18 IT IS SO ORDERED.

19 DATED: 7/30, 2014

20
21 Michael Kenny
HONORABLE MICHAEL KENNY
JUDGE OF THE SUPERIOR COURT

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California
County of
Case No.
Caption
Colleges
County
Case No.
Caption
Colleges
County
Case No.

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Exhibit A: Settlement Agreement

Goldfarb &

Lipman LLP

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