

RESOLUTION NO. 23

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER MILPITAS REDEVELOPMENT AGENCY DIRECTING SUCCESSOR AGENCY STAFF TO AMEND THE ADMINISTRATIVE BUDGET FOR JANUARY 1 THROUGH JUNE 30, 2013, AND TO PAY THE OVERSIGHT BOARD'S ADMINISTRATIVE AND LEGAL EXPENSES

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

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

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

WHEREAS, the Successor Agency's original FY 2012-13 administrative budget included administrative expenses and legal expenses for the Oversight Board, to be provided by the City of Milpitas staff;

WHEREAS, at its November 14, 2012, meeting, the Oversight Board adopted Resolution No. 7, incorporated herein by this reference, directing Successor Agency staff to amend the Oversight Board budget and make Oversight Board staff changes, and to reflect these changes in the administrative cost budget;

WHEREAS, the Oversight Board also authorized the Chair to contract with the County of Santa Clara for administrative support for the Oversight Board, and directed Successor Agency staff to provide a revised budget reflecting the changes directed by the Oversight Board, as well as a report on the year-to-date expenditures under the current administrative cost budget at the December meeting of the Oversight Board;

WHEREAS, at the December meeting, Emma Karlen, Oversight Board Member and Finance Director for the City of Milpitas, provided a report on the current administrative budget and a copy of the revised administrative budget for July 1 to December 31, 2012, reflecting a \$34,082 reduction to the Successor Agency's staff costs;

WHEREAS, as reflected in the December meeting minutes, incorporated herein by this reference, the Oversight Board directed Successor Agency staff to prioritize and pay legal and administration invoices, and noted the Oversight Board's understanding that the payment of such invoices would be made by the Successor Agency under protest;

WHEREAS, no payment was made;

WHEREAS, at the January 7, 2013, Resolution 16, incorporated herein by this reference, was adopted to compel the Successor Agency to pay the Oversight Board's expenses by directing Successor Agency staff to : 1) prioritize payment of administration related invoices; 2) set aside \$130,000 of the administrative cost allowance for January to June 30, 2013, transmitted by the County Auditor-Controller on January 2, 2013, for the payment of Oversight Board legal and administrative support costs; and 3) directed the Successor Agency to pay the invoices for legal costs and expenses within five (5) days of the effective date of Resolution 16;

WHEREAS, on February 19, 2013, Successor Agency staff provided a reconciliation of its estimated obligations for July 1 through December 31, 2012, reflecting that a portion (approximately \$14,760) of its administrative allowance is available to pay the Oversight Board's expenses;

WHEREAS, Successor Agency staff has only agreed to remit partial payment for the Oversight Board's administrative and legal costs from the unused portion of its administrative cost allowance (approximately \$14,760) and has not made any other payment;

NOW THEREFORE, BE IT RESOLVED, that the Oversight Board to the City of Milpitas Successor Agency directs the Successor Agency to pay the Oversight Board's outstanding administrative and legal costs by March 7, 2013, from the administrative allowance on account for the period of January 1, 2013, to June 30, 2013.

BE IT FURTHER RESOLVED, that the Successor Agency is directed to pay future invoices for Oversight Board legal services and administrative costs within thirty days of receipt from the Oversight Board Chair;

BE IT FURTHER RESOLVED, that should an unappealed court or administrative determination state that RPTTF should have been used to pay for the Oversight Board's legal costs, rather than the administrative cost allowance, the Oversight Board agrees that it will place an item on the next ROPS to allow for reimbursement to the City of Milpitas;

BE IT FURTHER RESOLVED, that the Successor Agency is directed to prepare a Revised Administration Budget for January to June 30, 2013, consistent with the direction provided herein and with the staffing changes outlined in Resolution No. 7;

BE IT FURTHER RESOLVED, that Successor Agency staff shall provide the Revised Administrative Budget to the Oversight Board's legal counsel no later than March 11, 2013, for distribution to the Oversight Board.

BE IT FURTHER RESOLVED, that in the event Oversight Board legal and administrative costs are less than the amounts reflected in the revised budget for January 1 through June 30, 2013, the Oversight Board will revise the administrative budget at a future meeting to allow for those funds to be spent on Successor Agency administrative expenses.

BE IT FURTHER RESOLVED, that in the event the Successor Agency does not remit payment as directed herein, the Oversight Board Chair is directed to request a taxing entity bring suit on behalf of the Oversight Board, and take any other necessary steps to compel such payment, including litigation.

PASSED AND ADOPTED this 28th day of February, 2013, by the following vote:

AYES: (4) Grilli, Knopf, Murdter, Williams

NOES: (3) Gomez, Mendizabal, Takahashi

ABSENT:

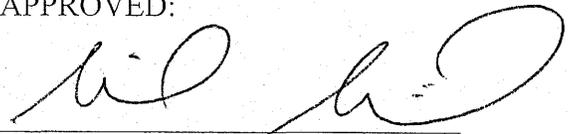
ABSTAIN:

ATTEST:



Barbara Crump, Oversight Board Secretary

APPROVED:



Michael Mendizabal, Oversight Board Chair