

HAYWARD SUCCESSOR AGENCY OVERSIGHT BOARD

RESOLUTION NO. 2012-05

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD, ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD, APPROVING AND AUTHORIZING THE SUCCESSOR AGENCY TO RE-ENTER INTO THE REPAYMENT AGREEMENT WITH THE CITY OF HAYWARD AND DIRECTING THE SUCCESSOR AGENCY TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE APPROVALS UNDER THIS RESOLUTION

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*); and

WHEREAS, on January 24, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the "City Council") declared that the City of Hayward, a charter city (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Hayward (the "Dissolved RDA") effective February 1, 2012; and

WHEREAS, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, the Dissolution Act requires that the Successor Agency prepare and the Oversight Board approve a Recognized Obligation Payment Schedule setting forth all "enforceable obligations" (as defined in Health and Safety Code Section 34171(d)) of the Dissolved RDA; and

WHEREAS, the Dissolution Act generally provides that (with exceptions) agreements between the Dissolved RDA and the City are not Enforceable Obligations, but Health and Safety Code Sections 34178(a) and 34180(h) authorize the Successor Agency and the City, with Oversight Board approval, to reenter into such agreements; and

WHEREAS, on September 23, 1975, the City entered into that certain Repayment Agreement, as amended and restated from time to time (the "Repayment Agreement"), whereby the City made loans to the Dissolved RDA (collectively, the "City Loans") in the current outstanding amount (including unpaid principal and accrued interest) of \$7,789,843 to facilitate implementation of the legitimate redevelopment program for the Downtown Hayward

Redevelopment Project Area by the Dissolved RDA, and the Dissolved RDA agreed to repay to the City the amounts borrowed under the City Loans in accordance with a defined schedule over a reasonable term of years and according to the reasonable terms of the Repayment Agreement; and

WHEREAS, the Dissolved RDA used the proceeds of the City Loans to make debt payments related to, and to otherwise pay the costs of, public improvements constructed in or of benefit to the Downtown Hayward Redevelopment Project Area to eliminate blight, stimulate private sector investment, and achieve the purposes of the Community Redevelopment Law and the Redevelopment Plan for the Downtown Hayward Redevelopment Project Area; and

WHEREAS, the City Council, acting as the Governing Board of the Successor Agency, considered and requested that the Oversight Board approve and authorize the Successor Agency to re-enter into the Repayment Agreement pursuant to Health and Safety Code Sections 34178(a) and 34180(h); and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board hereby finds, resolves, and determines that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

BE IT FURTHER RESOLVED that the Oversight Board, pursuant to Health & Safety Code Sections 34178(a) and 34180(h), hereby approves re-entry by the Successor Agency into the Repayment Agreement and/or to enter into a Re-Entry Agreement.

BE IT FURTHER RESOLVED that the Oversight Board finds that with respect to the Repayment Agreement, ongoing performance of this agreement is equitable and appropriate and will benefit the local taxing agencies by enabling the City to receive the intended City Loan repayments for municipal purposes that will enhance the physical and economic environment and will repay the City for funds provided to the Dissolved RDA used for costs incurred to decrease or eliminate adverse conditions in the Dissolved RDA's redevelopment project area that hindered private investment in the project area, and benefitted taxing entities by increasing property values in the project area as part of the previously performed Dissolved RDA's redevelopment activities. The Oversight Board further finds that the ongoing performance under the Repayment Agreement will provide significant indirect benefits to the taxing entities, including, but not limited to, continued public safety and fire protection.

BE IT FURTHER RESOLVED that the Oversight Board, pursuant to Health & Safety Code Sections 34178(a) and 34180(h), hereby approves and authorizes the Successor Agency to re-execute the City Contracts and/or execute such other document and instrument as are appropriate, in consultation with the City Attorney, acting in the capacity of counsel to the Successor Agency, to effectuate the reentry by the Successor Agency, in the City Contract with the City of Hayward that was in effect as of the date of the dissolution of the Dissolved RDA and

to take any other action necessary to effectuate and implement the City Contract, including but not limited to listing the City Contract on all Recognized Obligation Payment Schedules prepared by the Successor Agency staff to meet the requirements of the Dissolution Act;

BE IT FURTHER RESOLVED that, the Oversight Board hereby determines that, as re-authorized, the Repayment Agreement and/or Re-Entry Agreement constitutes an “enforceable obligation” and “recognized obligation” for all purposes of the Dissolution Act.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a municipal corporation, to initiate and prosecute any litigation with respect to any agreement or other arrangement between the City and the Dissolved RDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED, that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

HAYWARD, CALIFORNIA, May 21, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: 5 BOARD MEMBERS: Sweeney
Armas
Brooks
Salinas
Swartz

NOES: 0 BOARD MEMBERS:

ABSTAIN: 0 BOARD MEMBERS:

ABSENT: 1 BOARD MEMBERS: Miley



Chair of the Oversight Board to the
Successor Agency of the City of
Hayward