OVERSIGHT BOARD CITY OF PACIFICA AS SUCCESSOR AGENCY TO THE CITY OF PACIFICA REDEVELOPMENT AGENCY

August 23, 2012 – 5:30 PM Meeting in the City Council Chambers – 2212 Beach Blvd – Pacifica, CA 94044

www.citvofpacifica.org

For those wishing to address the Board on any Item on the Agenda or under Oral Communications, please complete a Speaker Card located at the rear of the Chambers and submit to a staff member as early in the meeting as possible.

AGENDA

- 1. Roll Call, Welcome and Introductions
- Minutes of June 26, 2012 Review and Approve
- 3. ROPS for September 1, 2012 submittal Approve Resolution for submission
- Trailer Bill Update Labadie
 City of Pacifica Loan to the Redevelopment Area
- Correspondence:

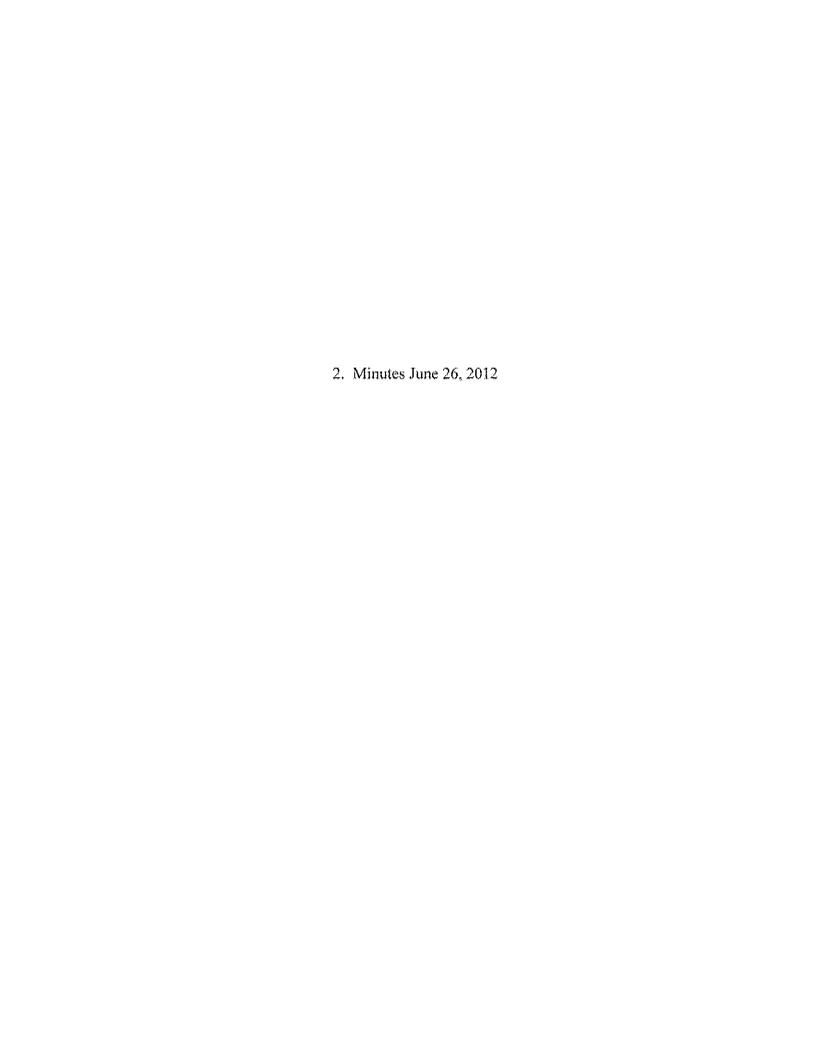
A. San Mateo County Housing Authority – July 31, 2012

6. Public Comments:

Note: Speakers are limited to three minutes, unless modified by the Chairperson. The Board cannot take action on any matter raised under this item.

- 7. Board Comments
- 8. Next meeting dates September 6, October 4
- 9. Adjourn

The City of Pacifica will provide assistance for disabled citizens upon at least 24 hours advance notice to the City Manager's Office (650) 738-7301, or send request via email to: o'connellk@ci.pacifica.ca.us If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.



OVERSIGHT BOARD CITY OF PACIFICA AS SUCCESSOR AGENCY TO THE CITY OF PACIFICA REDEVELOPMENT AGENCY

June 26, 2012 – 5:00 pm MINUTES

1. Roll Call and Introductions at Rockaway Beach (5:30pm)

Present at the meeting were Penny Bennett, Raymond Chow, Steve Rhodes and Josie Peterson.

Excused: Pete DeJarnatt, Mary Ann Nihart and Dave Holland

Staff present: Ann Ritzma, Administrative Services Director and Craig Labadie, Legal Counsel.

- 2. The group walked the Rockaway area and saw the seven parcels (6 parking lots and 1 small .014 acre parcel) owned by the former redevelopment area. The group adjourned to the 6:30 pm meeting at the City Council Chambers.
- 3. The Board reconvened at the City Council Chambers and Mary Ann Nihart was present.
- 4. Minutes of May 7, 2012

The minutes were approved unanimously (moved by Peterson and seconded by Chow)

5. The following materials were given to the Board.

Invoices for legal services:

Labadie - May 17, 2012 and June 5, 2012

Burke, Williams and Sorensen - May 18, 2012 and June 11, 2012

Invoice for City Audit: Moss, Levy and Hartzheim - June 8, 2012

Staff hours – Ritzma – 1/11/12 to 6/22/12

- 5. Correspondence:
 - A. May 11, 2012 ROPS Transmittal
 - B. Department of Finance May 23, 2012 ROPS Approval Letter
 - C. County of San Mateo Department of Housing Response

Duane Bay from San Mateo County Housing Authority requested a list of housing assets as the Housing Successor Agency.

5. Future Agenda Items:

Trailer Bill Update from Craig Labadie. Counsel gave a brief summary of what was proposed in the trailer bill. At the next meeting, once the b City of Pacifica Loan to former Redevelopment Agency

- 6. Board Comments: None
- 7. The Board scheduled the next meeting for July 18, 2012 and/or August 2, 2012 at 5:30 pm. The meeting adjourned at 7:00 p.m.

3. ROPS III for Sept 1 Submittal Resolution and DOF Forms

OVERSIGHT BOARD RESOLUTION NO.

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PACIFICA APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE OF THE SUCCESSOR AGENCY FOR THE PERIOD JANUARY 1 – JUNE 30, 2013

WHEREAS, Section 34177(1)(2) of the Health and Safety Code requires the Successor Agency to the Redevelopment Agency of the City of Pacifica ("Successor Agency") to submit to the State Department of Finance ("DOF"), the State Controller, and the San Mateo County Auditor-Controller ("County Auditor") for review, a Recognized Obligation Payment Schedule for the period January 1 through June 30, 2013 ("ROPS") that has been reviewed and approved by the Oversight Board for the Successor Agency City of Pacifica ("Board"); and

WHEREAS, Section 34177(m) of the Health and Safety Code requires that the ROPS be submitted, after approval by the Board, no later than September 1, 2012; and

WHEREAS, Successor Agency staff have prepared the attached ROPS and submitted it to the Board for review and approval, and at the same time have provided a copy of the attached ROPS to the County Administrative Officer, the County Auditor and DOF, all as required pursuant to Health and Safety Code Section 34177(I)(2)(B).

NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PACIFICA DOES RESOLVE AS FOLLOWS:

- 1. The Recognized Obligation Payment Schedule for the period January 1 June 30, 2013, in the form attached to this resolution and incorporated herein by reference, is hereby approved.
- 2. The staff of the Successor Agency is hereby directed to submit the ROPS to DOF, the State Controller and the County Auditor and post the ROPS on the Successor Agency's website in accordance with Health and Safety Code Section 34177(I)(2)(C), and to cooperate with DOF to the extent necessary to obtain DOF's acceptance of the ROPS, including, if necessary, making modifications to the ROPS determined by the Successor Agency's Administrative Services Director to be reasonable and financially feasible to meet its legally required financial obligations.

PASSED AND ADOPTED at a regular meeting of the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Pacifica, California held on August 23, 2012, by the following vote of the members thereof:

AYES:	Board Members -	
NOES:	Board Members -	
ABSTAIN:	Board Members -	
ABSENT:	Board Members -	
		Chair, Dave Holland
ATTEST:		
Clerk of the E	Board	

4. Trailer Bill Update Memorandum League of California Cities AB 1484 Important Dates Department of Finance – July 11, 2012 League of Cities Major Provisions of AB 1484

To be distributed at meeting: Goldfarb Lipman Summary (33 pages)

Memorandum

TO: Pacifica Oversight Board Members

FROM: Craig Labadie, Legal Counsel to Oversight Board

DATE: August 21, 2012

RE: Update on Redevelopment Dissolution Legislation

On June 27, the State Legislature passed a Budget Trailer Bill (AB 1484) which made extensive changes to the Redevelopment Dissolution Law (AB1x 26). This new legislation became effective immediately upon enactment. Attached for the Oversight Board's review are copies of the following: (1) a letter from the State Department of Finance summarizing key AB 1484 deadlines; (2) a brief outline of the major provisions of AB 1484 and the new deadlines it established, prepared by the League of California Cities; and (3) a more comprehensive summary prepared by Goldfarb Lipman, a leading redevelopment and affordable housing law firm. If the past experience with AB1x 26 is any indication, it will take some time to fully analyze this complex new legislation and determine how it is to be implemented for the various issues facing Oversight Boards and Successor Agencies throughout California.

However, it is apparent at the outset that AB 1484 has significant implications for the Pacifica Oversight Board. Based upon a preliminary review of the new law, here are some of the major changes affecting the Board's responsibilities:

- The third ROPS, covering the time period from January 1, 2013 through June 30, 2013, must be adopted by the Oversight Board and transmitted to the Department of Finance no later than September 1, 2012. The City could be subjected to a civil penalty of \$10,000 per day for an untimely submittal. DOF will have an extended review period of up to 45 days.
- The Successor Agency is required to undertake a two-stage audit process to determine the unencumbered LMIHF and RDA fund balances available for transmittal to local taxing entities. The results of this financial review are to be submitted to the Oversight Board, the County Auditor-Controller and the DOF by October 1, 2012 as to the LMIHF. The Oversight Board must review and approve the audit results by October 15, 2012. As to the RDA fund, the corresponding deadlines are December 15, 2012 and January 15, 2013. For each of these reviews, the Oversight Board must hold a meeting to receive public.

comment at least five business days prior to the meeting where it takes its approval action. DOF will issue a Finding of Completion after this financial review process is concluded.

- After issuance of a Finding of Completion, a City-RDA loan agreement can be treated as an enforceable obligation of the Successor Agency if the Oversight Board makes a finding that the loan was made for legitimate redevelopment purposes. Additional requirements apply to this type of loan:
 - Accumulated interest on the loan is to be calculated at the LAIF rate from the date of loan origination.
 - The loan is to be repaid over a "reasonable period of years" with future interest also at the LAIF rate, but repayment cannot begin until Fiscal Year 2013-14.
 - The maximum annual repayment amount is limited by a statutory formula to 50% of the increase in distributions to the taxing entities above the amount distributed in the 2012-13 base year.
 - 20% of repayment amounts received by the City must be deposited into a newly created Low and Moderate Income Housing Asset Fund ("LMIHAF") administered by the housing successor agency.
- After issuance of a Finding of Completion, disposition of non-housing properties owned by the former RDA can proceed in accordance with a Long-Range Property Management Plan to be approved by the Oversight Board and DOF. Ultimately, former RDA properties may be retained for governmental use, retained for future development in accordance with the redevelopment plan, used to fulfill an enforceable obligation, or sold.
- Pre-disposition carrying costs incurred by the Successor Agency with respect to real property may be listed on the ROPS as enforceable obligations, separate from the administrative cost allowance. The Oversight Board is authorized to reduce the annual administrative cost allowance below the \$250,000 statutory minimum.
- · All actions taken by the Oversight Board must be adopted by resolution.
- The Oversight Board is expressly authorized to direct the Successor Agency to provide additional legal or financial advice beyond that given by Successor Agency staff.

Please feel free to contact me if you have any additional questions or if you would like any further information about any of the matters covered in this memorandum.



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AB 1484: Important Dates

- July 9: County auditor-controller notifies successor agency of amount of funds owing taxing entities based upon December 2011 property tax payment¹
- July 12: Successor agency must make payment to auditor-controller for deposit into Redevelopment Property Tax Trust Fund and distribution to taxing entities.²
- July 16: Auditor-controller distributes money received from successor agencies to taxing entities. Monies received after July 12 date distributed within 5 days of receipt.³
- July 18: City sales tax payment suspended if successor agency doesn't make July 12 payment.⁴
- August 1: Successor housing entity must submit to DOF a list of housing assets that contains explanation of how assets meet criteria set forth in the law.

 DOF will prescribe format for list. DOF may object to any of the assets within 30 days. If after meet and confer, DOF continues to object, asset must be returned to the successor agency.⁵
- September 1: ROPS for January 1, 2013 through June 30, 2013 must be submitted electronically to DOF <u>after</u> oversight board approval. DOF makes determinations within 45 days. Within 5 days of determination, successor agency may request additional review and meet and confer.
- October 1: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of the LMIHF conducted by the licensed accountant agency must retain. Note: licensed accountant must be approved by the county auditor-controller.

¹ Section 34183.5(b)(2)(A). Note: The statute, that may be drafted in error, states that if June 1 property tax payment has not been made to successor agencies, the amount owing to taxing entities will be deducted from that same June 1 payment (34183.5(b)(1)).

² Section 34183.5(b)(2)(A).

³ Section 34183.5(b)(2)(A).

⁴ Section 34183.5(b)(2)(A)

⁵ Section 34176(a)(2). Definition of "housing asset" found at section 34176(e).

⁶ Section 34177(m). Future ROPS must be submitted to DOF 90 days prior to property tax distribution. City subject to civil penalty of \$10,000 per day for successor agency's failure to timely submit ROPS (Section 34177(m)(2)).

⁷ Section 34179.6(a). The requirement to retain a licensed accountant is found in section 34179.5. The audit provided by the county auditor-controller can be substituted for an audit by a licensed accountant if it contains the information required by Section 34179.5.

October 1: County auditor-controller completes agreed-upon procedures audit of each redevelopment agency. Auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.

October 15: Oversight Board must review, approve, and transmit LMIHF audit to DOF, auditor-controller. 10

November 9: DOF completes review of LMIHF audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.¹¹

November 16: Successor agency may request meet and confer to resolve disputes with DOF findings on LMIHF audit. DOF must confirm or modify its determination and decisions within 30 days.

November 28: Successor agency to transfer LMIHF funds to auditor-controller. City sales tax/property tax may be offset for unfunded amounts.

December 15: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of all other fund and account balances by licensed accountant. 13

January 15: Oversight board must review, approve, and transmit other funds audit to DOF, auditor-controller.¹⁴

April 1: DOF completes review of other funds audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets. 15

April 1: County auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period. 16

April 6: No later than 5 days after receiving DOF determination on other funds audit, successor agency may request meet and confer to resolve disputes with DOF findings. DOF must confirm or modify its determination and decisions within 30 days.

April 10: Successor agency to transfer other "cash and assets" audit payment to auditor-controller if meet and confer process complete. 17 City sales tax/property tax may be offset for unfunded amounts.

⁶ Section 34182(a)(1).

⁹ Section 34182(c)(3)

¹⁰ Section 34179.6(c)

¹¹ Section 34179.6(d)

¹² Section 34179.6(e)

¹³ Section 34179.6(a).

¹⁴ Section 34179.6(a).

¹⁵ Section 34179.6(a)

¹⁶ Section 34182(c)(3)

Safe Harbor: Successor agencies obtaining a "notice of completion" from DOF will qualify for loan repayments, bond proceeds expenditure authority to be placed on ROPS 18, and long range asset management plan.

 $^{^{17}}$ Section 34179.6(f). The statute does not allow sufficient time between completion of DOF review on April 1 and required payment on April 10.

¹⁸ DOF continues to retain final authority to approve items listed on ROPS



July 11, 2012

TO REDEVELOPMENT SUCCESSOR AGENCY REPRESENTATIVES

As part of our ongoing effort to work with Successor Agencies on the implementation of Assembly Bill 26, First Extraordinary Session (ABx1 26), the Department of Finance (Finance) would like to advise you of several new responsibilities and deadlines implemented by the recently enacted Assembly Bill 1484 (AB 1484, Chapter 26, Statutes of 2012). Specifically, AB 1484 establishes a catch-up process for revenues distributed in 2011-12. Going forward, AB 1484 expands the review time and creates a meet-and-confer process for future substantial's and processes. The measure also establishes incentives for compliance and penalties for noncompliance effective July 2012. These changes are described below, and Finance's website will continue to be updated to provide the most current information available.

2011-12 Catch-Up Process

AB 1484 establishes a catch-up process for the distribution of 2011-12 property taxes associated with the dissolution of redevelopment agencies. The timeline is short to ensure that the allocation of last year's revenues is quickly resolved.

- By July 9, 2012, county auditor-controllers must calculate the amount of residual property tax revenue that Successor Agencies owe to cities, counties, special districts, and K-14 schools (collectively known as Affected Taxing Entities) for the period covered by the January 2012 through June 2012 Recognized Obligation Payment Schedule (ROPS). These calculations are based on the information reported by the Successor Agencies on the January 2012 through June 2012 ROPS.
- By July 12, 2012, Successor Agencies must remit to the county auditor-controller the residual property tax revenue identified in the aforementioned billing.
- By July 16, 2012, county auditor-controllers must distribute to the Affected Taxing Entities the residual property tax revenue remitted by the Successor Agencies.

2012-13 and Future Processes

AB 1484 extends the time available for Finance to review Successor Agency submittals. In addition, for each submittal, it creates the option of a meet-and-confer process for Agencies to appeal Finance decisions beginning with the first deliverable for 2012-13. These new procedures will provide significantly more opportunities to discuss the specific details of each Agency's submittals.

 By August 1, 2012, Housing Successor Agencies must provide Finance a list of all housing assets transferred to it by the Successor Agency since February 1, 2012. A template for Housing Successor Agencies to use in reporting this information will soon be posted on the Finance website. AB 1484 provides Finance 30 days to review the list, and to question any transfers.

- By September 1, 2012, Successor Agencies must provide Finance with an Oversight Board-approved ROPS covering the January 2013 through June 2013 period. Finance will have 45 days to review the ROPS, and to object to any items that do not meet the definition of an Enforceable Obligation.
- By October 1, 2012, Successor Agencies must provide Finance an Oversight Boardapproved Due Diligence Review that has been prepared by a licensed accountant.
 This Due Diligence Review will list all encumbered and unencumbered low-andmoderate income housing fund (low-mod fund) assets, and will state whether or not
 those assets are encumbered by Enforceable Obligations. Finance has until
 November 9, 2012 to finalize its review of the submittals, and to determine which lowmod fund assets are not encumbered by Enforceable Obligations.
- By January 15, 2013, Successor Agencies must provide Finance a second Oversight Board-approved Due Diligence Review that has been prepared by a licensed accountant. This Due Diligence Review will list all encumbered and unencumbered assets of the Successor Agency that are from sources other than the low-mod fund. The Due Diligence Review also will state whether or not those assets are encumbered by Enforceable Obligations. Finance has until April 1, 2013 to finalize its review of the submittals, and to determine which assets are not encumbered by Enforceable Obligations.

Incentives and Penalties

Once a Successor Agency has complied with the July payment process and the asset transfer provision, AB 1484 provides certain benefits to the Successor Agencies, and also to the cities and counties that operate those Agencies. These benefits are as follows:

- The city or county may be eligible to receive repayment of sums loaned to their former redevelopment agency (RDA) more than two years after the former RDA was created. Under ABx1 26, loans made by a city or county to its former RDA more than two years after it was created are generally ineligible for repayment.
- The city or county may be eligible to receive title to certain real properties of the former RDA, and use those properties for purposes outlined in the redevelopment plan of the former RDA. Under ABx1 26, those real properties must be liquidated, with the sales proceeds distributed to the Affected Taxing Entities.
- The Successor Agency may be eligible to use for their intended purpose the proceeds from certain bonds that were not contractually obligated before ABx1 26 was enacted. Under current law, those bond proceeds only can be used to defease the bonds.

To help ensure that counties, cities, special districts, schools, and community colleges are receiving the appropriate level of revenues, AB 1484 allows strict civil penalties to be imposed if Successor Agencies fail to remit revenues on time. These civil penalties are as follows:

The city or county that operates the Successor Agency shall be subject to civil penalties
equal to: (a) 10 percent of the residual property tax owed the Affected Taxing Entities
and (b) a monthly penalty of 1.5 percent of the amount owed the Affected Taxing
Entities while the payments are late.

The Successor Agency itself shall be subject to civil penalties equal to: (a) 10 percent
of the residual property tax owed the Affected Taxing Entities and (b) a monthly penalty
of 1.5 percent of the amount owed the Affected Taxing Entities while the payments are
late.

The Successor Agency also would be prohibited from making any future ROPS payments while the owed amount is outstanding, other than those ROPS payments needed for bond debt service.

The city or county that operates the Successor Agency shall be subject to interruption
of their monthly Sales and Use Tax remittance from the Board of Equalization until the
owed amounts are paid.

We hope this information is helpful. If you have follow up questions, you can reach Finance at (916) 445-1546.

Sincerely,

ANA MATOSANTOS

that Matak

Director

cc: County Auditor-Controllers

icc: REYES, COHEN, ROCKWELL, JERUE, SHELTON, C. HILL, MONROE, STACY, FILE

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Major Provisions of AB 14841

1. Three payments: Successor agency must make three payments:

• July 12: Taxing entities' share of December 2011 property tax

distribution to redevelopment agency/successor agency

November 28: Low-Moderate Income Housing Fund

April 10: Unencumbered cash

In addition to these three payments, if a successor agency did not make complete 2011-12 pass-through payments, amount of payment not made will be deducted from property tax distribution from auditor-controller.²

- 2. **New audit by October 1:** Successor agency must retain licensed accountant to audit books:³
 - Audit of LMIHF
 - Audit of cash assets
 - Audit of cash transfers to public agencies and private parties⁴

3. New penalties:

• Failure to make July 12 payment: successor agency subject to civil penalty of 10% of the amount owed plus 1.5% of the amount owed for each month that payment is not made unless DOF finds that payment of penalty will jeopardize payment of enforceable obligations. Until payment is made,

¹ This initial Draft summary of AB 1484 was prepared by the League's Special Counsel, Betsy Strauss, on June 28, 2012, with the objective of providing something quickly to city officials. The League will continue to refine this analysis with the assistance of its RDA Attorney Working Group and other city officials.

² Additional information about these payments is found in the Appendix.

³ Agreed-upon procedures audit completed by auditor-controller can substitute for the licensed accountant audit if it includes all statutory requirements

⁴ Successor agency must attempt to recover cash transferred to public agency without an enforceable obligation,

successor agency may only pay bond debt. City subject to same civil penalty. City will not receive July 18 sales tax payment (up to amount owed).⁵

- Failure to transfer LMIHF funds: Offset of city sales tax or property tax of the amount required to be transferred⁶
- <u>Failure to transfer cash assets</u>: Offset of city sales tax or property tax of the amount required to be transferred⁷
- Failure to recover cash transferred to local agency without enforceable obligation: Offset of sales tax or property tax of the local agency to which the cash was transferred.⁸
- Failure to submit ROPS by September 1, 2012 and subsequent deadlines: City to pay civil penalty of \$10,000 per day for each day beyond deadline

4. Safe Harbor: Finding of Completion9

The Department of Finance will issue a <u>finding of completion</u> to a successor agency that pays the following amounts:

- ✓ The amount determined in the audit of the LMIHF¹⁰
- ✓ The amount determined in the audit of all other funds¹¹
- ✓ The amount (if any) owing to taxing entities from the December 2011 property tax payment¹²

The following applies to a successor agency that is issued a finding of completion:

✓ <u>Loan agreements</u> entered into between the redevelopment agency and the city are deemed to be enforceable obligations if oversight board makes a finding that loan was for legitimate redevelopment purposes. As enforceable obligations, payments are listed on ROPS¹³.

Repayments of loans may not begin prior to 2013-14 fiscal year at maximum amount described in statute. Repayment amounts received by city must first be used to retire outstanding amounts borrowed and owed to LMIHF of the

⁵ Section 34183.5(b)(2)

⁶ Section 34179.6(h)

⁷ Section 34179.6(h)

⁸ Section 34179.6(h); see, also 34179.8

⁹ Section 34191.1.

¹⁰ Section 34179.6

¹¹ Section 34179.6

¹² Section 34183.5

¹³ DOF continues to retain final authority to approve items listed on ROPS.

former redevelopment agency for purposes of the SERAF payment. 20% of loan repayment amount must be transferred to LMIH Asset Fund.¹⁴

- ✓ <u>Bond proceeds</u> derived from bonds issued on or before 12/31/10 shall be used for the purposes for which the bonds were sold. Proceeds which cannot be spent consistent with bond covenants shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.¹⁵ Use of bond proceeds listed on ROPS.¹⁶
- Real property assets: In lieu of the provisions of AB 26 which require disposal of real property assets at the direction of the oversight board, successor agency prepares a long-range property management plan and submits to oversight board and DOF for approval. Permissible uses of property include retention for governmental use; retention for future development; sale of property; use of the property to fulfill enforceable obligations. If plan directs use or liquidation of property for a project identified in an approved redevelopment plan, the property shall transfer to the city. No transfers until plan approved by oversight board and DOF.¹⁷
- ✓ <u>Statute of Limitations:</u> The longer statutes of limitations (2 years) to challenge actions of the former redevelopment agencies do not apply.¹⁸

5. New Power of State Controller 19

AB 1484 directs the Controller to review the activities of successor agencies to determine whether an asset transfer occurred after January 31, 2012, between the successor agency and the city or county that created the redevelopment agency, or any other public agency that was not pursuant to an enforceable obligation on an approved ROPS. The Controller is directed to order the assets returned to the successor agency. "City" is defined very broadly to include any entity which is controlled by the city or for which the city is financially responsible or accountable.²⁰

6. Increase in authority for Department of Finance

 DOF may eliminate or modify any item on an oversight board-approved ROPS. The auditor-controller must distribute property tax in accordance with changes made to the ROPS by DOF. If successor agency disputes DOF

^{14 34191.4(}b)(2).

^{15 34191.4(}c)

¹⁶ DOF continues to retain final authority to approve items listed on ROPS.

¹⁷ Section 34191.5

¹⁸ Section 33500, 33501

¹⁹ Section 34178.8

²⁰ Section 34167.10. <u>AB 26</u> directed the State Controller to review asset transfers from redevelopment agencies to the city or county that created the agency that occurred after January 1, 2011. If the city or county was not contractually committed to a third party for the expenditure or encumbrance of those assets, the Controller was directed to order the return the assets to the redevelopment agency or successor agency.

action, disputed item may be carried on ROPS. If dispute resolved in favor of successor agency in the future, the past allocation of property tax to the successor agency is not changed nor is a "liability" created for any affected taxing entity.²¹

DOF may review and object to oversight board actions approving (1)
 establishment of new repayment terms for outstanding loans; and (2) setting
 aside amounts in reserves as required by bond indentures, and similar
 documents²²

7. New restrictions on authority of Successor agency

- No new enforceable obligations except (1) as specifically authorized by the statute; (2) in compliance with enforceable obligations that existed prior to June 28, 2011; or (3) to hire staff, acquire professional services and procure insurance.²³
- May not transfer revenues or powers to any other public or private party except pursuant to enforceable obligation on an approved ROPS. Any such transfer of authority or revenues are "void" and successor agency required to reverse transfers. Controller may audit and order return of transfers of authority or revenues.²⁴
- Actions taken by redevelopment agencies pursuant to VARP (Voluntary Alternative Redevelopment Program in AB 27) are "ultra vires" and do not create enforceable obligations.²⁵
- If successor agency exercised power to reenter into agreements with city (section 34178) and agreement was approved by oversight board but rejected by DOF, successor agency and oversight board may not act to restore funding for the reentered agreement.²⁶
- No reestablishment of loan agreements between successor agency and city except pursuant to safe harbor provisions.²⁷

8. Miscellaneous

• <u>City loans to successor agency</u>: City may loan or grant funds for administrative costs, enforceable obligations or project-related expenses. Receipt and use of these funds shall be reflected on the ROPS or in the

²¹ Section 34179(h)

²² Section 34181(f)

²³ Section 34177.3(a); 34177.3(b)

²⁴ Section 34177.3(c)

²⁵ Section 34177.3(d)

²⁶ Section 34178(a)

²⁷ Section 34180(a)

administrative budget subject to oversight board approval. An enforceable obligation is created for repayment of loans.²⁸

- New Oversight Board Provisions²⁹
- ✓ Auditor-controller may determine "largest special district"
- ✓ Section 1090 does not apply to employee representative on oversight board
- Oversight board members are protected by immunities applicable to public entities and public employees
- ✓ Written notice and information about all oversight board actions must be provided to DOF by electronic means. DOF has 40 (instead of 10) days to review and approve, reject, or modify oversight board action.
- Oversight board may direct successor agency to provide additional legal or financial advice.
- ✓ Authorized to contract with the county or other public or private agencies for administrative support
- On matters within its purview, decisions made by oversight board "supersede those made by the successor agency or the staff of the successor agency."³⁰
- New authority for auditor-controller³¹: A county auditor-controller can object to an item on the ROPS or to the funding source listed for an item on the ROPS. Objections are sent to DOF to resolve.
- Polanco Act protection for successor agency: Cleanup plans and liability limits of redevelopment agency transferred to successor agency and to housing entity, upon entity's request.³²
- Limited authority for successor agency to refinance existing debt.³³
- Successor agency is separate public entity.³⁴

Appendix - Successor Agency Required Payments/Fund Transfers

²⁸ Section 34175(h)

²⁹ Section 34180

³⁰ Section 34179

³¹ Section 34182.5

³² Section 34173(f)

³³ Section 34177.5

³⁴ Section 34173(g)

✓ Transfer of Unencumbered Balances³⁵

AB 26 requires that a successor agency transfer unencumbered cash balances and low and moderate income housing funds to the county auditor-controller for distribution to the taxing entities. AB 1484 requires a successor agency to retain the services of a licensed accountant to audit (1) the balance in the LMIHF; (2) the balance in other cash funds; (3) cash payments that were made in compliance with an enforceable obligation; and (4) cash transfers that were made without an enforceable obligation. In addition to transferring the balances in the LMIHF and other cash funds, a successor agency must make efforts to recover the cash transferred without an enforceable obligation.

✓ Payment of December 2011 Taxing Entity Property Tax³⁶

AB 26 distributes property tax through a "waterfall" of payments which includes passthrough payments, payments to successor agencies for enforceable obligations, payments to successor agencies for administrative costs, and payments to taxing entities. The waterfall for the December 2011 property tax payment did not operate as intended because of the stay imposed by the Court in *Matosantos*. The property tax payment to taxing entities was not made. AB 1484 requires successor agencies to make those payments by July 12.

✓ Payment of 2011-12 Passthrough Payments

Some successor agencies made 2011-12 passthrough payments and some did not. AB 1484 requires the auditor-controller to reduce property tax payments to those successor agencies that did not make pass through payments in 2011-12.

³⁵ Section 34179.5; 34179.6

³⁶ Section 34183.5

5. Correspondence

San Mateo County Housing Authority - July 31, 2012



CITYHALL

170 Santa Meria Avenus - Pacifica, California 94044-2506 www.cityofnacifica.org MAYOR Macy Apo Nibarc

MAYOR PRO TEM Peter Delamak

COUNCIL Sue Digre James M. Vreelend, Jr. Len Stone

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Building
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Code Epicsormans
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POLICE DEPARTMENT TEL. (650) 704 7314 SAN (650) 355-1172

PERSON WORKS TEL. (\$50) 738-2740

FAN (660) 750 9747 • Englopering TFL (660) 758-3767 FAN (650) 758-3263

Field Sections
 YEL (656) 735-2766
 FAX (456) 785-8747

August 1, 2012

State Department of Finance

Email: redevelopment_administration@dof.ca.gov

We have received a copy of William Lowell's letter on behalf of the Housing Authority of the County of San Mateo ("Housing Authority"), dated July 30, 2012, purportedly declining to assume the duties of "housing successor agency" to the former Redevelopment Agency of the City of Pacifica ("Redevelopment Agency"). Mr. Lowell's letter is attached for your reference as Exhibit A.

We view the question of whether or not the Housing Authority may decime such duties to be a matter between the Department of Finance and the Housing Authority. We write only to make clear that, whatever the resolution of this question, the City of Pacifica ("City") has not and will not be assuming the housing functions and obligations of the former Redevelopment Agency.

Health and Safety Code Section 34176(a)(1) provides that the city that created a redevelopment agency "may elect to retain the housing assets and functions previously performed by the redevelopment agency," while Section 34176(b) describes the entities that are to assume those housing assets and functions in the event the city does not elect to retain them.

The City has not elected to retain the housing assets and functions of the former Redevelopment Agency. To the contrary, on January 23, 2012, the City Council adopted Resolution 01-2012, attached as Exhibit 8, specifically declining to serve as the successor to the former Redevelopment Agency's housing assets and functions. Resolution 01-2012 remains in effect, and the Council has taken no other action that would indicate an intention to reverse it.

Consequently, the City has not and will not be submitting the list of housing assets required by Health and Safety Code Section 34176(a)(2) to be submitted by the entity assuming the housing functions of the former redevelopment agency.

Thank you for your consideration.

South a. Rholin

Sincerely,

Stephen A. Rhodes City Manager cc: Michelle Marchetta Kenyon, City Attorney
William Lowell, Executive Director, Housing Authority of the County of San Mateo
Bob Adler, Controller, County of San Mateo
Aimee Armsby, County Counsel, County of San Mateo
Duane Bay, Director, Department of Housing, County of San Mateo
Dave Holland, Chairperson, RDA Successor Agency Oversight Board



Department of Housing

264 Harbor Boulevard, Building A . Belmont, CA 94002

Housing & Community Development Tel: (650) 802-5050 Fax: (650) 802-5049 Housing Authority Tel: (650) 802-3360 Fax: (650) 802-3373 Board of Supervisats Dave Pine Carele Grocen Den Horsley Rose Jacobs Gibson Addenne J. Tissier

Disctor: Dame thy

July 30, 2012

State Department of Finance

Email: redevelopment administration@dof.ca.gev

As the Department of Finance is aware, an agency that formed a dissolved RDA ("Sponsoring Community") was required to designate a housing successor agency. Typically, this has been the Successor Agency for the dissolved RDA. In San Matco County, in every case but one, the Successor Agency for the dissolved RDA has been the Sponsoring Community, and that Successor Agency has also been designated the Housing Successor. The exception is the City of Pacifica, which has opted not to accept the role of Housing Successor. Although the City Council of Pacifica voted on January 23, 2012, not to accept the role of Housing Successor Agency for its former Redevelopment Agency and to allow these functions to pass to the local area housing authority, the Housing Authority of the County of San Matco (HACSM), HACSM was not notified of this action. Instead, HACSM learned of it through other sources months later. Despite multiple inquiries to Pacifica officials concerning the nature of any housing assets, HACSM was repeatedly told that the only asset was cash that had been set aside in the Low and Moderate Income Housing Fund (LMIHF).

Last week, the 6/30/11 Pacifica RDA audited financial report finally was made available to HACSM, a copy of which is available upon request. This report shows that in addition to the cash set-aside, the RDA has also entered into enforceable agreements to repay lenders to an affordable senior housing complex in the event of default by the borrower. The amount of the notes totals \$600,000 and the report states that there is accumulated interest of \$186,312.

MACSM is 100% funded by the U.S. Department of Housing and Urban Development to administer federal rental subsidy programs, primarily Section 8 and public housing, at the local level. Federal statute prohibits the expenditure of its programmatic funds for any purpose other than the administration of such programs. Every year the HACSM Board of Commissioners formally attests to the federal government that HACSM has not and will not authorize the expenditure of any federal funds for any purposes other than the operation of specific federal programs.

Moreover, a legislative scheme that would impose upon HACSM as a successor agency financial obligations such as foan guarantees, which it did not incur, and for which it receives no corresponding funding, would constitute an unfunded mandate, and therefore be prohibited by law. In addition, current proposed statutory revisions, including ongoing confusion on reimbursement of administration costs and expenses, would greatly affect possible outcomes.

For these reasons, the HACSM is hereby notifying the Department of Finance that it is declining to assume duties of "housing successor agency" as specified in recent State of California legislation.

Absent legislative clarification concerning the application of recent changes in the law governing the dissolution of RDAs, and in particular the provisions governing affordable housing assets and liabilities, HACSM cannot take any further action on behalf of the former City of Pacifica Redevelopment Agency.

Sincerely,

William Lowell

Executive Director, Housing Authority of the County of San Mateo

Co: Bob Adler, Controller, County of Son Mateo 555 County Center, 4th Floor, Redwood City CA 94063

Aimee Armsby, County Counsel, County of San Mateo 400 County Center, 4th Floor, Redwood City CA 94063

Duane Bay, Director, Department of Housing, County of San Mateo 264 Harbor Bivd., Bldg. A. Belmont CA 94002

Ann Ritzma, Administrative Services Director, City of Pacifica 170 Santa Maria Ave., Pacifica CA 94044

Dave Holland, Chairperson, RDA Successor Agency, Oversight Committee 170 Sama Maria Ave., Pacifica CA 94044

Adriense Tissier, President. Board of Commissioners, Housing Authority of the County of San Marco
400 County Center, Redwood City CA 94063



Scenic Pacifica

CITY HALL

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* Kirtigisch Tal. (650) 228-7344

* Code Enforcement

Tet., (650) 708-7341

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- Flatd Services TEL, (650) 722-3700 FAX (555) 738-9747

January 27, 2012

Tom Huening San Mateo County Controller SSS County Center, 4th Floor Redwood City, CA 94063-1663

Dear Mr. Huening:

Enclosed please find the City of Pacifica's Redevelopment Agency's adopted Resolution 01-2012:

- a) Determining the City will serve as the Successor Agency to the Redevelopment Agency
- b) Flecting not to retain the housing Assets and functions of the Redevelopment Agency
- c) Authorizing the City Manager to perform all duties and actions on behalf of the City in transferring the Redevelopment Agency's Housing Assets and Functions to the Housing Authority of San Mateo County,

Additionally, please find Resolution 01-2012 of the Agency Adopting an amended Enforceable Obligation Payment Schedule pursuant to Section 34169 (g) of the California Health and Safety Code.

Sincerely,

Ann Ritzma

Administrative Services Director

Cont 12th

Cc: Kanchan K. Charan, Deputy Controller Shirley Tourel, Senior Internal Auditor

CITY COUNCIL RESOLUTION NO. 01-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA

(1) DETERMINING THE CITY WILL SERVE AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PACIFICA; (2) ELECTING NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY; AND (3) AUTHORIZING THE CITY MANAGER TO PERFORM ALL ACTIONS AND DUTIES AND EXECUTE ALL DOCUMENTS ON BEHALF OF THE CITY REQUIRED TO TRANSFER THE REDEVELOPMENT AGENCY'S HOUSING ASSETS AND FUNCTIONS TO THE HOUSING AUTHORITY OF THE COUNTY OF SAN MATEO

WHEREAS, the Redevelopment Agency of the City of Pacifica ("Agency") is a redevelopment agency organized and existing under the Culifornia Community Redevelopment Law (Health & Safety Code § 33000 et seq.) ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council of the City of Pacifica ("City Council" or "City," as applicable); and

WHEREAS, pursuant to the CRL, the City Council approved and adopted the Redevelopment Plan ("Redevelopment Plan") for the Pacifica Redevelopment Project on July 14, 1986, by Ordinance No.467-86, as amended to date, and the Agency is vested with the responsibility for implementing and carrying out the Redevelopment Plan; and

WHEREAS, the Agency is currently in the process of carrying out the goals and objectives of the Redevelopment Plan by continuing to: climinate blight; increase, improve and preserve the supply of affordable housing in the community; stimulate and expand economic growth and employment opportunities by revitalizing properties and businesses within the Project; and alieviate deficiencies in public infrastructure; and

WHEREAS, in connection with approval and adoption of the State Budget for Fiscal Year 2011-12, the California Legislature approved and the Governor signed (i) AB 1X 26 (Stats. 2011, chap. 5, "AB 1X 26"), which immediately, and purportedly retroactively, suspended all otherwise legal redevelopment activities and incurrence of indebtedness, and provided for dissolution of California's redevelopment agencies effective October 1, 2011 (the "Dissolution Act"); and (ii) AB 1X 27 (Stats. 2011, chap. 6, "AB 1X 27"), which allowed a local community to avoid the consequences of the Dissolution Act and continue its redevelopment agency if the community enacted an ordinance agreeing to comply with the alternative voluntary redevelopment program described in Section 2 of AB 1X 27 adding Part 1.9 (commencing with section 34192) of Division 24 of the Health and Safety Code; and

WHEREAS, the California Redevelopment Association, et al. challenged the constitutionality of AB 1X 26 and AB 1X 27 in California Redevelopment Association et al. v. Ana Matosantos et al., which was heard by the California Supreme Court; and

WHEREAS, in a decision filed on December 29, 2011, the Supreme Court found the dissolution of redevelopment agencies effected by AB 1X 26 to be a proper exercise of the legislative power vested in the Legislature by the State Constitution, while the Court found the

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provisions of AB 1X 27 allowing communities to save their redevelopment agencies if they made the "voluntary" remittance payments under AB 1X 27 to violate Proposition 22; and that the two bills were severable, allowing the dissolution provisions of AB 1X 26 to survive even as it invalidated AB 1X 27; and

WHEREAS, the Supreme Court extended the timeframes set forth in AB 1X 26 for, among other things, determining whether a redevelopment agency desires to serve as a successor entity until January 13, 2012; and

WHEREAS, Health and Safety Code Section 34171(j) defines the "successor agency" as the "county, city, or city and county that authorized the creation of each redevelopment agency," unless such entity elects not to serve as a successor agency under Section 34173(d); and

WHEREAS, Health and Safety Code Section 34177 tasks each successor agency with the responsibility, among other things, for winding down the dissolved redevelopment agency's affairs, continuing to meet the former redevelopment agency's enforceable obligations, overseeing completion of redevelopment projects and disposing of the assets and properties of the former redevelopment agency, all as directed by the oversight board; and

WHEREAS, if a city opts out of serving as the successor agency by passing and filing a resolution to that offect with the county auditor-controller. Health and Safety Code Section 34173(d) provides that another local agency may elect to serve as the successor agency, or in the event no other local agency so elects, the Governor will appoint a successor agency to be comprised of three residents of the county; and

WHEREAS, the City desires to act as the successor agency to the Agency; and

WHEREAS, Health and Safety Code Section 34176(a) gives the city that authorized creation of a redevelopment agency the option of retaining its housing assets and functions, excluding amounts on deposit in the Low and Moderate Income Housing Fund; and

WHEREAS, as allowed under AB 1X 26, the City does not desire to retain the Agency's housing assets and functions and, therefore, pursuant to Health and Safety Code Section 34176(b), all Agency housing assets and functions shall be transferred to the local housing authority, the Housing Authority of the County of San Mateo; and

WHEREAS, the City is the lead agency concerning this Resolution pursuant to the California Environmental Quality Act (codified as Public Resources Code Section 21000 et seq) ("CEQA") and the State CEQA Guidelines; and

WHEREAS, City staff has determined that this Resolution is exempt from CEQA, pursuant to CEQA Guidelines Section 15378(b)(4), because the resolution does not involve any commitment to any specific project that may result in a potentially significant environmental impact.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and incorporated herein.

Section 2. In accordance with Health and Safety Code Section 34171(j), and based on the Recitals set forth above, the City Council hereby determines that the City shall serve as the successor agency to the Agency.

Section 3. In accordance with Health and Safety Code Section 34176, the City elects not to retain the housing assets and functions previously performed by the Agency, and, therefore, authorizes the City Manager to perform all duties and actions and execute any documents on behalf of the City required to transfer the Agency's housing assets and functions to the Housing Authority of the County of San Mateo.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on January 23, 2012, by the following vote of the members thereof:

AYES.

Council Members:

Nihart, Digre, Stone, & DeJamatt

NOES,

Council Members:

None

ABSENT,

Council Members:

Vreeland

ABSTAIN.

Council Members:

None

Pete DeJarnatt, Mayor

ATTEST

Kathy O'Connell, City Clerk

Michelle Marchetta Kenyon City Attorney