

**OVERSIGHT BOARD RESOLUTION NO. 2012-03**

**A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO APPROVING THE SUCCESSOR AGENCY'S PROPOSED ADMINISTRATIVE BUDGET PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(j), AND AUTHORIZING THE SUCCESSOR AGENCY TO ENTER INTO AN AGREEMENT WITH THE CITY OF MISSION VIEJO FOR ADMINISTRATIVE SUPPORT PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171; AND MAKING OTHER FINDINGS IN CONNECTION THEREWITH**

**WHEREAS**, the Community Development Agency of the City of Mission Viejo ("Agency") was established as a redevelopment agency that was previously organized and existing under the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* ("CRL"), and previously authorized to transact business and exercise powers of a redevelopment agency pursuant to action of the City Council of the City of Mission Viejo ("City"); and

**WHEREAS**, Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code, which laws cause the dissolution and wind down of all redevelopment agencies ("Dissolution Act"); and

**WHEREAS**, on December 29, 2011, in the petition *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld the Dissolution Act and thereby all redevelopment agencies in California were dissolved as of and on February 1, 2012 under the dates in the Dissolution Act that were reformed and extended thereby ("Supreme Court Decision"); and

**WHEREAS**, the Agency is now a dissolved redevelopment agency pursuant to the Dissolution Act; and

**WHEREAS**, by a resolution considered and approved by the City Council at an open public meeting the City chose to become and serve as the successor agency to the dissolved Agency under the Dissolution Act; and

**WHEREAS**, as of and on and after February 1, 2012, the City serves and acts as the "Successor Agency" and will perform its functions as the successor agency under the Dissolution Act to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

**WHEREAS**, pursuant to Section 34179 the Successor Agency's Oversight Board has been formed and the initial meeting has occurred on March 29, 2012; and

**WHEREAS**, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Act; and

**WHEREAS**, Section 34177(j) requires the Successor Agency to prepare a proposed administrative budget covering the period from February 1, 2012 through June 30, 2012 and submit it to the Oversight Board for approval; and

**WHEREAS**, pursuant to Section 34177(j), the Successor Agency's "Administrative Budget" is to include all of the following: (a) estimated amounts of the Successor Agency's administrative costs for the up-coming six month fiscal period; (b) the proposed sources of payment for the costs identified in (a); and (c) proposals for arrangements for administrative and operations services provided by the city serving as Successor Agency; and

**WHEREAS**, the Successor Agency's proposed Administrative Budget has been submitted to the Oversight Board for its review and approval; and

**WHEREAS**, the Administrative Budget, as approved by the Oversight Board, will be provided to the County of Orange Auditor Controller pursuant to Section 34177(k) so that the Successor Agency's estimated administrative costs in the approved Administrative Budget will be paid from property tax revenues deposited into the Redevelopment Property Tax Trust Fund for the up-coming six-month period; and

**WHEREAS**, pursuant to Section 34180(h) the Successor Agency may request authorization from the Oversight Board for the Successor Agency and the City of Mission to enter into an agreement to ensure provision of the necessary services from the City to support Successor Agency responsibilities in winding down the activities of the former community redevelopment agency, including the estimated costs set forth in the Administrative Budget; and

**WHEREAS**, the Successor Agency desires to enter into that certain "Agreement for Reimbursement of Costs and City/Successor Agency Operations Loan" ("Costs Reimbursement Agreement"), which agreement will authorize the reimbursement of costs incurred by the City to support Successor Agency operations and obligations; and

**WHEREAS**, the Oversight Board desires to approve the Successor Agency's proposed Administrative Budget and to authorize the Successor Agency to enter into the Costs Reimbursement Agreement"); and

**WHEREAS**, pursuant to the Dissolution Act, the actions of the Oversight Board, including those approved by this Resolution, do not become effective for three (3) business days pending any request for review by the DOF, and if the DOF requests review hereof, DOF will have 10 days from the date of its request to approve this Oversight Board action or return it to the Oversight Board for reconsideration and the action, if subject to review by DOF, will not be effective until approved by DOF.

**NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO:**

**Section 1.** The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

**Section 2.** Pursuant to the Dissolution Act, the Oversight Board approves the Successor Agency's proposed Administrative Budget, attached hereto as Attachment No. 1 and incorporated by this reference.

**Section 3.** Pursuant to the Dissolution Act, the Oversight Board authorizes the Successor Agency's to enter into the Costs Reimbursement Agreement substantially in the form of the *Agreement for Reimbursement of Costs and City/Successor Agency Operations Loan*, attached hereto as Attachment No. 2 and incorporated by this reference.

**Section 4.** The Oversight Board authorizes the Successor Agency to transmit the Administrative Budget and Costs Reimbursement Agreement, when/if approved and entered to between the Successor Agency and the City, to the County Auditor-Controller, the State Department of Finance, and the State Controller's Office.

**Section 5.** The City Manager of the Successor Agency or his authorized designee is directed to post the Administrative Budget and Costs Reimbursement Agreement (when/if entered into) on the City/Successor Agency website.

**Section 6.** This Resolution shall be effective after transmittal of this Resolution with the Administrative Budget and Costs Reimbursement Agreement attached to the DOF and the expiration of three (3) business days pending a request for review by the DOF within the time periods set forth in the Dissolution Act; in this regard, if the DOF requests review hereof it will have 10 days from the date of its request to approve this Oversight Board action or return it to the Oversight Board for reconsideration and the action, if subject to review by DOF, will not be effective until approved by DOF.

**Section 7.** The Secretary of the Oversight Board shall certify to the adoption of this Resolution.

**APPROVED AND ADOPTED** this 29th day of March 2012.

  
\_\_\_\_\_  
Robert D. Breton, Chair  
Oversight Board to the Successor Agency  
of the Community Development Agency of  
the City of Mission Viejo

ATTEST:

  
\_\_\_\_\_  
Sherry Merrifield, Secretary  
Oversight Board to the Successor Agency  
of the Community Development Agency of the City of Mission Viejo

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF MISSION VIEJO        )

I, Sherry Merrifield, Secretary of the Oversight Board to the to the Successor Agency of the Community Development Agency of the City of Mission Viejo, hereby certify that the foregoing resolution was duly adopted by the Oversight Board at a special meeting held on the 29th day of March 2012, and that it was so adopted by the following vote:

AYES:           Breton, Dyas, Imburgia, Probalsky & Ury

NOES:           None

ABSENT:        Fitzsimons, Pappalardo

  
\_\_\_\_\_  
Sherry Merrifield, Secretary  
Oversight Board to the Successor Agency  
of the Community Development Agency of  
the City of Mission Viejo

**AGREEMENT FOR REIMBURSEMENT OF COSTS  
AND CITY/SUCCESSOR AGENCY OPERATIONS LOAN**

This **AGREEMENT FOR REIMBURSEMENT OF COSTS AND CITY/SUCCESSOR AGENCY OPERATIONS LOAN** ("Agreement") is made and entered into as of March 29, 2012 by and between the **CITY OF MISSION VIEJO**, a California municipal corporation ("City"), and the **CITY OF MISSION VIEJO ACTING AS SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO** ("Successor Agency").

**RECITALS**

**A.** The Community Development Agency of the City of Mission Viejo ("Agency") was established as a community redevelopment agency that was previously organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, *et seq.* ("CRL"), and previously authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City.

**B.** Assembly Bill x1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code, which laws cause the dissolution and wind down of all redevelopment agencies ("Dissolution Act").

**D.** On December 29, 2011, *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld the Dissolution Act and thereby all redevelopment agencies in California are subject to the Dissolution Act and were dissolved effective February 1, 2012.

**E.** The Agency is now a dissolved community redevelopment agency pursuant to the Dissolution Act.

**F.** By a resolution considered and approved by the City Council at an open public meeting the City chose to become and serve as the "Successor Agency" to the dissolved Agency under the Dissolution Act.

**G.** As of and on and after February 1, 2012, the City serves as the "Successor Agency" and is performing its functions as the successor agency under the Dissolution Act to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs, all subject to the review and approval by a seven-member Oversight Board formed thereunder.

**H.** By a resolution considered and approved by the City Council at an open public meeting on January 25, 2012 pursuant to California Health and Safety Code Section 34176 of the Dissolution Act, the City declined to assume the housing assets and functions of the Agency and selected the Mission Viejo Housing Authority to so assume such housing assets and functions, and on such date also pursuant to Section 34176 the Authority accepted and assumed the housing assets and functions of the Agency and as of February 1, 2012 became and serves as the

"Successor Housing Agency" of the former Agency pursuant to the Dissolution Act. At this time, any assets assigned and transferred by operation of law and to be assigned and transferred by authorization of and direction from the oversight board when formed and operating pursuant to the Dissolution Act to the Successor Housing Agency are not adequate to fund administrative support costs and expenses unless any future Low and Moderate Income Housing fund balances are authorized to be transferred under State Law to the Successor Housing Agency. If this occurs, a future modification to this Agreement may be necessary.

I. City as Successor Agency is engaged in activities necessary and appropriate to winding down the activities of the former Agency's Community Development Project Area ("Project Area") that was originally adopted and amended by ordinances of the City Council.

J. Employees of the City will perform day-to-day administration and operation of the Successor Agency's duties and functions. Since the Community Development Agency of the City of Mission Viejo was originally formed and upon Successor Agency's effectiveness as of February 1, 2012, City has provided and shall continue to provide services to the Successor Agency, including but not limited to providing administrative, accounting, auditing, planning, engineering, legal, risk management, financial, clerical, record-keeping, and other services necessary for the Successor Agency to carry out its responsibilities.

K. City and Successor Agency desire to affirm and document an on-going cooperative arrangement regarding administrative and operational services and payment for services by entering into a new contract whereby City agrees to provide administrative and operational services and Successor Agency agrees to pay City for the cost of all such services to be provided by City for Successor Agency in amount equal to the Successor Agency Administrative Budget prepared pursuant to California Health and Safety Code Section 34177(j) and approved by the Oversight Board for each six-month period and fiscal year under the term of this Agreement.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants and conditions herein contained, the parties hereto agree as follows:

1. **Reimbursement of Administrative Expenses.** The Successor Agency shall be liable to the City for the payment of its Administrative Expenses as set forth in this Agreement and as adopted as part of an Administrative Budget by the Successor Agency, as approved by the Oversight Board, as such annual Administrative Budget may be amended, revised or reconciled from time to time. These Administrative Expenses shall be in addition to any direct program or project expenses ("Program Expenses") incurred and noted on the Enforceable Obligations Payment Schedule ("EOPS") and in the Recognized Obligation Payment Schedule ("ROPS"), including salary and benefits of employees funded by the Successor Agency for Program Expenses. The Successor Agency shall also be liable to the City for payment of these Program Expenses where they are adopted as part of the EOPS or ROPS.

**2. Cost of Administrative Expenses and Administrative Cost Allowance.**

**2.1** Successor Agency and City estimate that the cost of administrative and operational services to be provided by City to the Successor Agency for the period of February 1, 2012 through June 30, 2012 is One Hundred Seventy-Six Thousand Two Hundred Dollars (\$176,200), which is itemized in the Successor Agency's Administrative Budget approved by action of the Oversight Board. Pursuant to the provisions of Section 4 herein, Successor Agency agrees to pay the sum of \$176,200 to City to pay for the estimated administrative expenses of the Successor Agency for the period February 1, 2012 through June 30, 2012 and for subsequent fiscal years, subject to Oversight Board approval and Successor Agency preparation and approval of an Administrative Budget estimate for such services and costs pursuant to the Dissolution Act. The Successor Agency shall also be liable to the City for payment of any Program Expenses incurred by City where they are adopted as part of the EOPS or ROPS.

**2.2.** Information and supporting data regarding the staffing and allocation of costs for have been prepared by Successor Agency and City staff and are made a part hereof by this reference. Within thirty (30) days of the expiration of the 2011-2012 fiscal year and each year thereafter during the term of this Agreement, the parties shall determine the actual costs incurred by Successor Agency for services provided to the City. If the actual amount incurred by Successor Agency is less than the estimated amount, City shall reimburse Successor Agency in the amount overpaid within 30 days of such notice, and if the actual amount incurred by Successor Agency is greater than the estimated amount, any additional amount above the estimated amount shall be due and payable by Successor Agency from the Redevelopment Obligation Retirement Fund and the additional amount shall be advanced to Successor Agency by City.

**3. Services to be Provided.** City agrees to continue to aid and cooperate and shall aid and cooperate in the planning, undertaking, construction and operation of remaining enforceable obligations of the Successor Agency previously incurred by the former Agency as it relates to enforceable obligations of the former Agency within the City provided the cost of such services are paid by Successor Agency. At the request of Successor Agency through the City Manager and duly authorized designees, City and its officers and employees shall perform services for Successor Agency in carrying out its work related to meeting the former Agency's enforceable obligations and for winding down the activities of the former Agency and shall have access to any and all personnel and the facilities of the departments and offices of the City. Those City officers and employees who are also appointed to positions or offices with or related to the Successor Agency shall perform services for the each agency in a dual capacity. The City Manager, and other appropriate City officials on behalf of the City and the Successor Agency, and duly authorized designees, shall determine and establish the procedures to be followed in requesting and rendering such services. The costs of administrative services shall be considered Administrative Expenses in the Annual Administrative Budget. The costs of other Successor Agency Program Expenses where supported by City services are

identified as specific line items on the EOPS or ROPS and not part of the estimated Administrative Expenses identified in Section 1.

4. **Meeting Facilities.** City agrees to make available to Successor Agency such office space and meeting space as is necessary for conducting meetings and the business of such agency, including use of the City Council Chambers and appropriate conference room(s) for open public meetings, closed session meetings, and study session meetings of the Successor Agency and Oversight Board, and meetings of Successor Agency staff, counsel, consultants, and other representatives. Each agency shall use such space in accordance with the rules and regulations of the City as applicable to other buildings and offices of the City.

5. **Succeeding Years during Term of Agreement.** The procedure set forth above in Sections 2, 3 and 4 shall be undertaken by Successor Agency, the Oversight Board, and City for each successive six-month period and for each fiscal year during the term of this Agreement based on each approved Administrative Budget and ROPS prepared pursuant to the Dissolution Act.

6. **City Cost Allocation Plan; Estimated Cost of Administrative Services and Facilities.** Expenses shall be calculated in the manner set forth in City's cost allocation plan, or other applicable reasonable cost allocation and accounting plan approved by the parties that conforms with generally accepted accounting principles and that is generally applicable to all users of services and facilities of the City. The specific costs to be allocated herein shall be based upon the cost of the following categories of services:

6.1 **Wages and Benefits Successor Agency.** Wage and Benefit expenses incurred in connection with City employees described to perform administrative services work for Successor Agency (as opposed to direct program or project work as identified as "Program Expenses" related to enforceable obligations), including salaries, wage and fringe benefits. The costs attributable to employees who devote less than 100% of their time to the Successor Agency shall be allocated in accordance with the City's cost allocation plan.

6.2 **General Overhead.** A general indirect administrative operating expenses and overhead support charge which shall be determined in accordance with the City's cost allocation plan and Successor Agency Annual Administrative Budget.

6.3 **Specific Services.** All expenses that City may actually incur in providing specific administrative services on behalf of Successor Agency including, but not limited to, audit services, lease of space to accommodate Successor Agency's activities, City Treasurer services, property insurance for Successor Agency's properties, contracts for real estate data and information, department supplies, mail and postage services, equipment maintenance and IT support. Operational services which relate directly and specifically certain programs, contracts, and/or projects such as engineering design, planning, contract costs, contract administration, inspection, surveys shall not be considered administrative



services but direct specific program and project expenditures ("Program Expenses") and shall be so listed and included as direct costs in each Administrative Budget subject to the Dissolution Act and other applicable laws.

7. **Annual Expenses Deemed City Advance.** For each year in which Successor Agency does not have adequate funds to pay and reimburse for Administrative Expenses as shown in the adopted Administrative Budget each such amount shall be deemed an advance by City to Successor Agency and such amount shall be deemed to have been loaned by City to Successor Agency ("City/Successor Agency Operations Loan").

8. **Repayment of Operations Loan.** Successor Agency agrees to repay the City/Successor Agency Operations Loan (and all future advances thereto) from (former) tax increment funds allocated to Successor Agency that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund pursuant to California Health and Safety Code Section 34177(k) and other applicable laws. Successor Agency shall repay to City the principal amount of the City/Successor Agency Operations Loan on or before the last date that Successor Agency may receive tax increment funds pursuant to the time and financial limitations required to meet all enforceable obligations of the Successor Agency and subject to the Dissolution Act and other applicable laws.

9. **Provisions Severable.** If any provision of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable. The City Council and Successor Agency each hereby declares that it would have approved this Agreement irrespective of the invalidity of any particular portion hereof.

10. **Effective Date of Agreement.** This Agreement shall become effective as of the date in the first paragraph hereof and shall continue thereafter until modified or terminated by the parties hereto.

11. **Subordination Indebtedness.** The indebtedness of the City/Successor Agency Operations Loan under this Agreement shall be junior and subordinate to other allocated moneys made from the Redevelopment Property Tax Trust Fund including those pursuant to California Health and Safety Code Section 34183(a)(1) and (2).

IN WITNESS WHEREOF, the parties have caused this Agreement for Reimbursement of Costs and City/Successor Agency Operations Loan to be executed by their officers thereunto duly authorized on the date first above written.

CITY OF MISSION VIEJO, a California municipal corporation

By: [Signature]  
Mayor

ATTEST:

[Signature: Karen Hamman]  
City Clerk

APPROVED AS TO FORM

[Signature: William Pleurlegan]  
City Attorney

CITY OF MISSION VIEJO ACTING AS THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO

By: [Signature]  
Mayor on behalf of Successor Agency

ATTEST:

[Signature: Karen Hamman]  
City Clerk  
on behalf of the Successor Agency

APPROVED AS TO FORM

[Signature]  
Special Counsel to City as Successor Agency

**SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT  
AGENCY OF THE CITY OF MISSION VIEJO  
ADMINISTRATIVE BUDGET  
February 1, 2012 through June 30, 2012**

The proposed administrative budget for the Successor Agency of the Community Development Agency of the City of Mission Viejo is comprised of three elements: direct personnel costs; other direct costs; and indirect costs.

**Direct Personnel Costs**

Employees expected to dedicate time specifically related to Successor Agency issues over the five month period of February 1, 2012 through June 30, 2012 have been individually listed within this section of the budget. *Fiscal Year 2011/2012 Costs* for each position includes total salary and benefits budgeted for this position for FY 2011/2012 by the City of Mission Viejo. *Annual Hours* is the hours estimated to be attributable to Successor Agency Issues by each position. *Total Annual Agency Cost* is calculated by applying the annual hours to the total 2011/2012 cost for each position. *Total Five Month Cost* is equal to 5/12<sup>th</sup> of the Total Annual Agency Cost amount.

**Other Direct Costs**

Other direct costs will change from period to period. For the five months from February 1, 2012 through June 30, 2012, it is anticipated that other direct costs will be limited to legal services provided by the City of Mission Viejo's contracted City Attorney.

**Indirect Costs**

The indirect costs are calculated based upon the City of Mission Viejo's cost allocation plan. Indirect costs include administrative support from the City Council, Commission and City Clerk general government program area as well as financial overhead costs related to insurance, payroll, accounts payable, purchasing, and facilities usage. Indirect costs represent approximately 4% of the total former CDA budget.

	<u>Fiscal Year</u>			
	<u>2011/2012 Costs</u>	<u>Annual Hours</u>	<u>Total Annual Agency Cost</u>	<u>Total Five Month Cost</u>
<b>Direct Personnel Costs</b>				
City Manager	\$ 261,824	240	\$ 30,210	\$ 12,600
Assistant City Manager/Director of Public Services	198,832	240	22,942	9,600
Director of Administrative Services	197,470	720	68,355	28,500
Treasury Manager	156,671	720	54,232	22,600
Accounting Supervisor	103,192	720	35,720	14,900
Administrative Assistant	78,197	720	27,068	11,300
Director of Community Development	198,832	120	11,471	4,800
Planning & Economic Development Manager	161,561	120	9,321	3,900
Director of Public Works	192,549	120	11,109	4,600
City Engineer	178,371	120	10,291	4,300
<b>Total Direct Personnel Costs</b>				<b>117,100</b>
<b>Other Direct Costs</b>				
City Attorney	383,000			12,000
<b>Total Estimated Direct Cost</b>				<b>129,100</b>
<b>Indirect Costs</b>				
City Overhead			113,128	47,100
<b>Total Successor Agency Admin Budget</b>				<b>\$ 176,200</b>