

RESOLUTION OB 2013-004

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE TOWN OF LOS GATOS APPROVING THE SUCCESSOR AGENCY'S LONG-RANGE PROPERTY MANAGEMENT PLAN PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.5 AND AUTHORIZING TRANSFER OF PROPERTY

RECITALS:

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

WHEREAS, pursuant to Health and Safety Code Section 34173(g), as added by the Redevelopment Dissolution Statutes, the Successor Agency is a separate legal entity from the Town of Los Gatos (the "Town"); 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 Former 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, on May 15, 2013, the Successor Agency received a "Finding of Completion" from the California Department of Finance (the "DOF") pursuant to Health and Safety Code Section 34179.7, confirming that the Successor Agency had made specified required payments under the Dissolution Law; and

WHEREAS, pursuant to Health and Safety Code Section 34191.5(b), the Successor Agency is now entitled to and must prepare and submit a Long-Range Property Management Plan (the "LRPMP") in connection with the property assets of the Successor Agency to the Oversight Board and the DOF no later than six months following the issuance by the DOF of the Finding of Completion; and

WHEREAS, the only property of the Former RDA that was transferred to the Successor Agency upon the dissolution of the Former RDA pursuant to Health and Safety Code Section 34175(b) and that is now subject of a LRPMP is the public parking building structure (the "Building") located between Elm Street and Grays Lane (commonly known as Parking Lot #4) in the Town's downtown area and within the Central Los Gatos Redevelopment Project Area; and

WHEREAS, in accordance with Health and Safety Code Section 34191.5, the Successor Agency has prepared and, by resolution of September 12, 2013, has approved and submitted its LRPMP for the Building to the Oversight Board; and

WHEREAS, a copy of the Successor Agency's LRPMP is on file with the Secretary of the Oversight Board; and

WHEREAS, as fully set forth in the LRPMP:

1. The Building was constructed by the Town and occupies a parcel of land (the "Site") that is owned in fee by the Town.

2. The Site has at all relevant times been owned in fee by the Town, was never owned by the Former RDA, is not now owned by the Successor Agency, and is therefore not a subject of the LRPMP or available for disposition in accordance with the Redevelopment Dissolution Statutes.

3. The Town intends to continue to own the Site on a long-term basis in order to continue to operate the Building on the Site as a public parking facility.

4. The Site was leased by the Town to the Former RDA pursuant to a 1992 site lease (the "Site Lease").

5. Pursuant to a simultaneous lease agreement (the "Lease Agreement"), the Former RDA subleased the Site and the Building as constructed by the Town back to the Town for operation as public parking facility.

6. The Site Lease and Lease Agreement were entered into as security for issuance by the Town of its 1992 Certificates of Participation (Parking Lot #4 Project) (the "1992 COPS"), the proceeds of which were used by the Town in part to pay the costs of acquisition and construction of the Building.

7. The 1992 COPS constitute "indebtedness obligations" under Health and Safety Code Section 34171(e).

8. Because the Site Lease and Lease Agreement were entered into in connection with the issuance of the 1992 COPS that constitute indebtedness obligations, the Site Lease and the Lease Agreement continue to constitute "enforceable obligations" under Health and Safety Code Section 34171(d)(2).

9. Section 4.5 of the Lease Agreement states in relevant part:

"If the Town...pays all Lease Payments during the Term of this Lease Agreement as the same become due and payable, all right, title and interest of the [Former RDA] under the Site Lease in and to the [Building]... shall be transferred to and vested in the Town. The [Former RDA] agrees to take any and all steps and execute and

record any and all documents reasonably required by the Town to consummate any such transfer."

10. As of August 2012, the Town had made all required lease payments required under the Lease Agreement, and thereby became entitled to a transfer of the Building from the Successor Agency without further payment or compensation.

WHEREAS, for the reasons summarized above and detailed in the LRPMP, the LRPMP provides that, upon the approval of the LRPMP by the Oversight Board and the DOF, the Building shall be conveyed by the Successor Agency to the Town without compensation or payment from the Town, and without further action or approval by the Oversight Board or the DOF (beyond the approval of the LRPMP itself); 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 THAT THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE TOWN OF LOS GATOS, HEREBY FINDS, RESOLVES, AND ORDERS 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, determination, and directions set forth in this Resolution.

Section 2. With respect to compliance with the California Environmental Quality Act and its state and local implementing guidelines ("CEQA"):

a. The transfer of the Building to the Town as directed in the LRPMP is exempt from the requirements of CEQA pursuant to State CEQA Guidelines Section 15301 (as an action resulting in continuation of an existing facility).

b. The Secretary of the Oversight Board, or the Secretary's designee, is hereby authorized and directed to file appropriate notice with respect to this Resolution and the actions set forth in this Resolution in accordance with the applicable provisions of CEQA.

Section 3. Pursuant to Health and Safety Code Section 34191.5(b), the Oversight Board hereby approves the LRPMP in the form on file with the Secretary of the Oversight Board.

Section 4. Upon the Successor Agency's receipt of all approvals of the LRPMP required under the Redevelopment Dissolution Statutes, the Oversight Board directs the Successor Agency to dispose of the Building to the Town and transfer in accordance with the LRPMP and to take any action and execute any documents as may be necessary to implement such disposition.

Section 5. The Oversight Board hereby directs its Secretary, or the Secretary's designee, 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 12, 2013, by the Members of the Oversight Board of the Successor Agency by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:



CHAIR OF THE OVERSIGHT BOARD AND
SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY OF THE TOWN
OF LOS GATOS

ATTEST:



CLERK ADMINISTRATOR/SECRETARY OF THE
OVERSIGHT BOARD AND SUCCESSOR AGENCY
OF THE REDEVELOPMENT AGENCY OF THE
TOWN OF LOS GATOS