

**NOTICE AND CALL OF SPECIAL MEETING
OVERSIGHT COMMITTEE TO THE SUCCESSOR AGENCY OF
THE FORMER HESPERIA COMMUNITY REDEVELOPMENT AGENCY**

NOTICE IS HEREBY GIVEN that a special meeting of the Oversight Committee to the Successor Agency of the former Hesperia Community Redevelopment Agency is hereby called to be held on Thursday, December 13, 2012 at 4:30 p.m. at City Hall, 9700 Seventh Avenue, Hesperia, CA 92345.



Paul R. Russ, Chair

December 13, 2012

**SPECIAL MEETING AGENDA
OVERSIGHT COMMITTEE TO THE SUCCESSOR AGENCY OF
THE FORMER HESPERIA COMMUNITY REDEVELOPMENT AGENCY**

**City Council Chambers, Hesperia City Hall
9700 Seventh Avenue, Hesperia, California**

As a courtesy, please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.

Documents relating to items on the agenda produced after the posting of the agenda are available in the City Clerk's office.

Prior to action of the Board, any member of the audience will have the opportunity to address the Board on any item listed on the agenda, including those on the Consent Calendar. PLEASE SUBMIT A COMMENT CARD TO THE BOARD SECRETARY WITH THE AGENDA ITEM NUMBER NOTED.

CALL TO ORDER	4:30 p.m.
----------------------	------------------

- A. Pledge of Allegiance to the Flag

- B. Roll Call:
 - Chair Paul Russ
 - Vice Chair Ron Rector
 - Member Russell Blewett
 - Member Mike McKinney
 - Member Christopher O'Hearn
 - Member Mike Podegracz
 - Member Thurston "Smitty" Smith

- C. Agenda Revisions and Announcements

PUBLIC COMMENTS RELATING TO OVERSIGHT BOARD

The public may at this time address the members of the Oversight Board on any matters within the jurisdiction of the Oversight Board, prior to any action taken on the Agenda. No action may be taken on off-Agenda items except as authorized by law. Speakers are requested to limit their comments to no more than three minutes each.

Under the provisions of the Brown Act, the Board is prohibited from taking action on oral requests. However, Committee Members may respond briefly or refer the communication to staff. The Board may also request the Board Secretary to calendar an item related to your communication at a future Board meeting.

NEW BUSINESS

(Staff Person: Steven Lantsberger, Deputy Director of Economic Development)

1. Receipt of Due Diligence Review (DDR) for the "Other Funds and Account Balances" pursuant to H&SC §34179.5 and convening of public comment session in compliance with H&SC §34179.6(b). NOTE: DDR to be distributed at meeting.

Recommended Action: Receive DDR and open statutory public comment session.

BOARD MEMBER COMMENTS OR REPORTS

The Committee Board may make comments of general interest or report on their activities as a representative of the Oversight Board.

SUCCESSOR AGENCY STAFF COMMENTS OR REPORTS

The Successor Agency staff or Attorney may make announcements or reports concerning items of interest to the Oversight Board and the public.

ADJOURNMENT

The Chair will adjourn the meeting of the Agency to Thursday, December 20, 2012, at 4:00 p.m.


I, Susie Flores, Recording Secretary of the Oversight Committee to the Successor Agency of the Former Hesperia Community Redevelopment Agency, do hereby certify that I caused to be posted the foregoing agenda on December 7, 2012 at 4:00 p.m. pursuant to California Government Code §54954.2.

Susie Flores
Recording Secretary

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, YOU SHOULD CONTACT THE RECORDING SECRETARY AT (760) 947-1909. EARLY NOTIFICATION WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ASSURE ACCESSIBILITY TO THIS MEETING.

City of Hesperia STAFF REPORT



DATE: December 13, 2012
TO: Chair and Board Members
FROM:  Steven J. Lantsberger, CED/EDFP Deputy Economic Development Director
SUBJECT: Receipt of All Other Funds and Account Balances (OFAB) Due Diligence Review (DDR) and Covering of Public Comment Session

RECOMMENDED ACTION

It is recommended that the Oversight Board adopt Resolution No. OB 2012-027: (i) approving the receipt of the Due Diligence Review of the Other Funds and Account Balances (OFAB); (ii) covering the statutory public comment session as set forth in California Health & Safety Code §34179.6(b); and (iii) continue the public comment session for a period not less than five business days.

BACKGROUND

AB 1484 added new audit/review provisions with the stated intent of identifying any unencumbered or unobligated funds held by the successor agency that could be distributed to the taxing entities. Section 34179.5 was added to the H&SC which requires that each successor agency employ a licensed accountant, approved by the County Auditor-Controller (CAC), with experience in local government accounting, to conduct due diligence reviews of the "low and moderate income housing fund" (LMIHF) and a separate review of all "other funds and account balances" (OFAB). These reviews are due to the Oversight Board by October 1, and December 15, 2012 for the LMIHF and OFAB, respectively. At the August 30, 2012 meeting the Oversight Board approved Resolution No. 2012-018 authorizing the Successor Agency to contract with an accountancy firm approved by the San Bernardino County Auditor Controller (CAC) to prepare the DDR.

ISSUES/ANALYSIS

By January 15, 2013, successor agencies must submit to the California Department of Finance (DOF) an Oversight Board-approved DDR of the OFAB. A draft of the OFAB DDR has been completed by White Nelson Diehl Evans (WNDE) and is attached for your review. This review is also being tendered to the DOF, CAC, and the San Bernardino County Administrative Officer simultaneously pursuant to H&SC §34179.

The DDR: (i) lists all OFAB assets, and states whether or not those assets are encumbered by Enforceable Obligations; (ii) itemizes amounts that are legally restricted; (iii) statement of values of any assets that are not cash and cash equivalents; (iv) itemization of any current balances that are legally or contractually dedicated or restricted; and (v) a detailed listing and analysis of any amounts of current balances that are needed to satisfy obligations on the Recognized Obligation Payment Schedules (ROPS) for the current fiscal year.

The Oversight Board is required to convene a "public comment session" five days prior to actual approval of the DDR.

The Oversight Board has certain obligations in reviewing and approving the DDR. A few of the noteworthy obligations include:

- Consideration of any opinions by the CAC on the DDR;
- Transmit to the Department of Finance and CAC the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities; and
- Directing the Successor Agency to assist in the review and approval of the aforementioned determination of available cash and cash equivalents.

Consequently, the Oversight Board has the following powers:

- Authorize and direct the Successor Agency to retain certain assets or funds which may be used to retire certain Enforceable Obligations; and
- Adjust any amounts provided in the DDR to reflect additional information and analysis.

Notwithstanding the foregoing, the DOF may make adjustments to any amounts associated with cash and cash equivalents potentially available to the taxing entities [H&SC 34179.6(d)]. The DOF must complete its review of the OFAB DDR by April 1, 2013 and shall also notify the Oversight Board and Successor Agency of its decision to overturn any decision of the Oversight Board with respect to the retention of assets. The Successor Agency and the Sponsoring Community may request a meet and confer with the DOF to resolve any disputes, however; such request shall be made no later than five (5) business days of transmission of the DOF's determination. The DOF shall either confirm or modify its determinations and decisions within thirty (30) days of the request to meet and confer.

FISCAL IMPACT

There is no direct or indirect fiscal impact in receiving the DDR and convening the statutory public comment session. However, should the DDR or the determinations of the Oversight Board to retain certain assets be challenged by the DOF there is a potential for a negative fiscal impact, specifically loss of cash and cash equivalents.

ALTERNATIVE(S)

1. None.

ATTACHMENT(S)

1. Resolution No. OB 2012-027
2. OFAB Due Diligence Review

RESOLUTION NO. OB 2012-027

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER HESPERIA COMMUNITY REDEVELOPMENT AGENCY (HCRA): (I) ACKNOWLEDGING RECEIPT OF THE OTHER FUNDS AND BALANCES (OFAB) DUE DILIGENCE REVIEW (DDR) OF THE FORMER HCRA; AND (II) OPENING THE PUBLIC COMMENT SESSION PURSUANT TO H&SC §34179.6(B)

WHEREAS, the City of Hesperia (City), is a municipal corporation duly organized under the laws and Constitution of the State of California; and

WHEREAS, on June 28, 2011 Governor Jerry Brown signed into law ABx1 26 (Law) which abolished redevelopment in California and set forth the "winding down" procedures for redevelopment agencies, the designation of successor entities, and oversight boards; and

WHEREAS, the City, pursuant to Resolution No. 2011-021, elected to serve as the Successor Agency (SA) of the Hesperia Community Redevelopment Agency (HCRA); and

WHEREAS, the Oversight Board, pursuant to Resolution No. OB 2012-003, recognizes and approved the Hesperia Housing Authority as the Successor Housing Entity; and

WHEREAS, in compliance with H&SC §34189(a), on June 27, 2012 Governor Jerry Brown signed into law AB 1484, the "Redevelopment Trailer Bill," which contained "clean-up" and amendatory language to the Law, specifically directives related to "housing assets," reporting, reviews, audits, and other implementation guidance; and

WHEREAS, AB 1484 also amended H&SC §34179(e) stating: "all actions taken by the oversight board shall be adopted by resolution;" and

WHEREAS, AB 1484 allows the Department of Finance (DOF) five business days to request a review of any oversight board action; and

WHEREAS, if, at the expiration of the five business day review period the DOF has not requested a review of an oversight board action the action shall be deemed effective; and

WHEREAS, H&SC §34179.5 amended the Law adding a requirement to conduct a "due diligence review" (DDR) for the purpose of distributing unobligated balances of redevelopment agency funds to taxing entities; and

WHEREAS, H&SC §34179.5 requires that the Successor Agency employ a licensed accountant to conduct this DDR, or use an audit prepared by the County Auditor Controller (CAC) so long as the required information is included; and

WHEREAS, the Oversight Board approved Resolution No. OB 2012-018 on August 30, 2012 authorizing the Successor Agency to retain the professional accountancy services of White Nelson Diehl Evans to prepare the DDR; and

WHEREAS, AB 1484 sets forth strict compliance dates for completion and submission to the Oversight Board the DDR of the Low and Moderate Income Housing Fund (LMIHF), and all other funds and balances (OFAB) by October 1, 2012 and December 15, 2012, respectively; and

WHEREAS, H&SC §34179.6(b) requires that upon its receipt of the DDR the Oversight Board shall convene a public comment session at least five business days before approval of the DDR; and

WHEREAS, the public comment session shall officially commence upon the passage of this Resolution and terminate not less than five business days hence; and

WHEREAS, H&SC §34179.6(c) grants many powers to the Oversight Board including the ability to: (i) adjust any amount in the due diligence reviews upon the provision of additional information and analysis; and (ii) direct the successor agency to retain assets or funds contractually committed or needed for items on the ROPS during that fiscal year; and

WHEREAS, pursuant to H&SC §34180(j) the Successor Agency has submitted the DDR and accompanying documents to the CAC, County Administrative Officer (CAO), and Department of Finance (DOF) contemporaneously with the Oversight Board;

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER HESPERIA COMMUNITY REDEVELOPMENT AGENCY AS FOLLOWS:

- Section 1. The Oversight Board hereby finds that all of the facts set forth in this Resolution are true and correct and are incorporated herein by reference.
- Section 2. That the Oversight Board is authorized specifically by H&SC §34177, 34179-34181, and generally by ABx1 26 & AB 1484 to take the actions set forth herein.
- Section 3. That all actions of the Successor Agency, Successor Housing Entity and Oversight Board prior to June 27, 2012 were in compliance with ABx1 26 and pre-empted the passage of AB 1484.
- Section 4. The Oversight Board hereby acknowledges receipt of the OFAB DDR submitted by the Successor Agency and declares the statutory public comment session open.
- Section 5. The Oversight Board grants upon to itself pursuant to H&SC §34179.6(c) the ability to: (i) adjust any amount in the due diligence reviews upon the provision of additional information and analysis; and (ii) direct the Successor Agency to retain assets or funds contractually committed or needed for items on the ROPS during that fiscal year.

- Section 6. That the Oversight Board authorizes and directs the Successor Agency to electronically forward all actions taken by it to the DOF immediately for the purpose of initiating the DOF's five business-day review period.
- Section 7. The Oversight Board hereby designates the Deputy Director of Economic Development (DDED) as the official to whom which the DOF may contact pursuant to Oversight Board actions and authorizes the DDED to provide the DOF with the information requested; and the DDED shall provide the DOF with his contact e-mail address and telephone number. Furthermore, the DDED is authorized to request and conduct a meet and confer process pursuant to H&SC §34179.6(e), on behalf of the Successor Agency, Sponsoring Entity and Oversight Board to resolve any issues pertaining to the due diligence reviews.
- Section 8. Should the DOF determine that the action herein requires reconsideration, the DDED, on behalf of the Oversight Board is hereby authorized, in his sole and absolute discretion to determine whether the DOF's request mandates Oversight Board action or can be addressed administratively by the Successor Agency with the caveat that such action be: (i) within the scope of the Successor Agency; (ii) financially or administratively immaterial; and (iii) generally or specifically authorized by ABx1 26 or AB 1484.
- Section 9. This activity is not a "project" and therefore exempt from CEQA pursuant to State CEQA Guidelines § 15060(c)(3).
- Section 10. The Oversight Board authorizes DDED and the staff of the Successor Agency to make minor, non-substantive revisions or corrections to the staff report, this resolution, and any accompanying documents without further review and approval so long as such changes do not materially alter the intent and/or direction provided.
- Section 11. The Chair and DDED are hereby authorized, on behalf of the Oversight Board and the Successor Agency, to sign all documents necessary and appropriate, including contracts, agreements, deeds, etc., and any amendments thereto to carry out and implement this Resolution.
- Section 12. If any section, sentence, clause or phrase of this Resolution is determined to be invalid, void or unconstitutional by a decision or order of a court of competent jurisdiction, such decision or order shall not affect the validity or enforceability of the remaining portions of this Resolution, and this Oversight Board hereby declares that it would have passed the remainder of this Resolution if such invalid portion thereof had been declared invalid or unconstitutional.
- Section 13. The Chair of the Oversight Board is hereby authorized to execute this Resolution on behalf of the Oversight Board and this Resolution shall go into effect immediately upon its adoption.

Section 14. That the Secretary to the Board shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions of the Oversight Board.

ADOPTED AND APPROVED this 13th day of December 2012.

Paul Russ, Chair

ATTEST:

Susie Flores, Secretary to the Board