

RESOLUTION NO. OB-002

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO MORGAN HILL REDEVELOPMENT AGENCY APPROVING REQUEST FROM THE SUCCESSOR AGENCY TO ENTER A REIMBURSEMENT AGREEMENT BETWEEN THE CITY AND THE SUCCESSOR AGENCY

WHEREAS, Part 1.85 of the Health and Safety Code (“Code”) (commencing with §34170) (“Dissolution Act”) dissolved the former Morgan Hill Redevelopment Agency (the “Former Agency”) and designated the City of Morgan Hill (“City”) as the Successor Agency for the Former Agency (“Successor Agency”).

WHEREAS, under Dissolution Act, the Successor Agency must, among other statutory duties, perform the following duties relevant to this Agreement:

1. Continue making payments for and perform obligations under enforceable obligations;
2. Dispose of assets and properties of the Former Agency; and
3. Continue to oversee development of properties until the contracted work has been completed, including using bond proceeds for purposes for which the bonds were sold.

WHEREAS, Code §34178 of the Dissolution Act provides:

“ . . . [A]greements, contracts, or arrangements between the city or county or City and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; *provided, however*, that a successor agency wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board.”
(emphasis added)

WHEREAS, Code §34180(h) gives the Oversight Board the authority to approve “a request by a successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency.”

WHEREAS, in order to reimburse the City for its costs to perform its duties in its capacity as the Successor Agency, the Successor Agency has requested the Oversight Board’s approval of a “Reimbursement Agreement” for categories of reimbursable costs as described below.

Reimbursable Contracts

WHEREAS, Code §33445(c) permitted the Former Agency to enter into agreements with the City to reimburse the City for the costs of acquisition of land and of buildings and improvements of redevelopment projects undertaken by the City. Pursuant to this Code Section, the City and the Former Agency entered into reimbursement agreements to pay for the City’s undertaking of certain redevelopment projects of publicly-owned improvements (“Improvements”).

WHEREAS, with the expectation that the Former Agency would reimburse the City for the costs of undertaking the Improvements (as memorialized through resolutions, reimbursement agreements and adopted findings), the City entered into certain contracts for the land acquisition, planning, design, contracting, construction and rehabilitation of these Improvements (including legal, engineering and appraisal services) (“Reimbursable Contracts”). The Reimbursable Contracts (and the Improvements to which each of the Reimbursable Contract relate) are set forth in Exhibit A to this Resolution.

WHEREAS, in order for the City to continue to undertake the Improvements and to be reimbursed for the costs of the Reimbursable Contracts, and for the Successor Agency to fulfill its obligation to continue the development of certain public improvements that are already underway, a reimbursement agreement between the City and Successor Agency is necessary to reimburse the City for the costs of the Reimbursable Contracts.

Enforceable Obligations Implementing Costs.

WHEREAS, the City, now acting in its capacity as the Successor Agency, pays for employee costs (for administrative, professional, technical, financial and legal staffing), office equipment and supplies, and other apportioned operational costs, in order to:

- Implement the Improvements, including, but not limited to, construction inspection, project management, or actual construction; and
- Administer and implement Enforceable Obligations.

These costs are collectively referred to herein as “Enforceable Obligations Implementing Costs.” Pursuant to the Dissolution Act, these Enforceable Obligations Implementing Costs are includable in the Recognized Payment Obligation Schedule, with identified sources of payment of such costs, and are listed in Exhibit B to this Resolution.

WHEREAS, in order for the City to continue to pay employee and other costs to implement the Enforceable Obligations and for the Successor Agency to fulfill its obligation to satisfy its obligations under the Enforceable Obligations, a reimbursement agreement between the City and Successor Agency is necessary to reimburse the City for the costs of the Enforceable Obligations Implementing Costs.

Administrative Costs

WHEREAS, the Dissolution Act provides for an administrative costs allowance to pay for administrative costs of administering and implementing the Successor’s Agency’s obligations that are not Enforceable Obligations Implementing Costs (“Administrative Costs”) pursuant to an administrative cost budget approved by the Oversight Board. The City, acting in its capacity as the Successor Agency incurs employee costs, office equipment and supplies and other apportioned operational costs payable from the administrative costs allowance. The Administrative Costs budget, as approved by the Oversight Board, is attached hereto as Exhibit C.


WHEREAS, in order for the City to continue to pay Administrative Costs and for the Successor Agency to carry out its administrative obligations, a reimbursement agreement between the City and Successor Agency is necessary to reimburse the City for the Administrative Costs.

WHEREAS, the Successor Agency and City wish to provide for the reimbursement to the City of the Costs of the Reimbursable Contracts, the Enforceable Obligation Implementing Costs and the Administrative Costs by entering into a Reimbursement Agreement.

BE IT RESOLVED BY the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of Morgan Hill that the Board does hereby approve the request by the Successor Agency to enter into the Reimbursement Agreement shown in Appendix A of this Resolution.

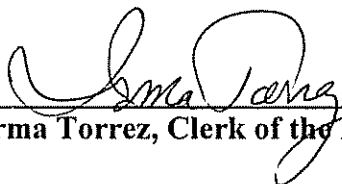
PASSED AND ADOPTED by the Oversight Board of Morgan Hill at a Special Meeting held on the 16th day of April 2012, by the following vote:

AYES:	Board members:	Pete Kutras, Steve Kinsella, Steve Tate, Angela Rivera, Wes Smith, Vinod Sharma, Don Gage
NOES:	Board members:	None
ABSENT:	Board members:	None



**Chair - Oversight Board of the Successor
Agency to the Morgan Hill Redevelopment Agency**

Attest:



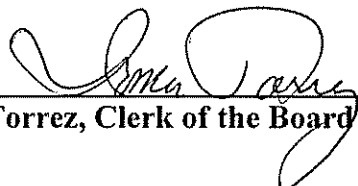
Irma Torrez, Clerk of the Board

∞ **CERTIFICATION** ∞

I, Irma Torrez, City of the Oversight Board of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. OB-002, adopted by the Oversight Board at the meeting held on April 16, 2012.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: 7/6/12



Irma Torrez, Clerk of the Board

EXHIBIT A

City of Morgan Hill Oversight Board
 Master Successor Agency Reimbursement Agreement Items

Item No.	Project Name or Debt Obligation	Payee	Funding Source
1.20	MH Integrated Alarm	MH Integrated Alarm	RPTTF
1.32	Domain Website	South Valley Internet	Admin
1.35	FY 10/11 Street Resurfacing	CSG Consultants	RPTTF
1.37	CIP Projects-Property Acquisition	Nossaman LLP	RPTTF
1.41	West Dunne Ave-Legal Services	JARVIS, FAY, DOPORTO & GIBSON	RPTTF
1.43	Inspection Services	CSG CONSULTANTS, INC	RPTTF
1.44	Inspection Services	RMA GROUP OF NORTHERN CALIF	RPTTF
1.49	Landscape Maintenance	SMITH & ENRIGHT LANDSCAPNG,INC	RPTTF
1.51	Marketing/Graphics/Advertising Design	SAN JOSE BUSINESS JOURNAL	Admin
1.52	Chamber of Commerce	MH Chamber of Commerce	Admin
1.56	Legal Counsel	NOSSAMAN LLP	Admin
1.58	Owl Plan Administration	Live Oak Associates	RPTTF
1.62	Web-Streaming of Successor Agency Meetings	Granicus	Admin
2.7	Butterfield Blvd- South Consulting Contract	IMH Engineering Co.	Bonds
2.9	Butterfield Blvd- South Design Services	WEBER, HAYES & ASSOCIATES, INC	Bonds
2.10	Butterfield Blvd- South Property Acquisition	Lake	Bonds
2.11	Butterfield Blvd- South Property Acquisition	Gallo	Bonds
2.12	Butterfield Blvd- South Property Acquisition	Ray-Will	Bonds
2.13	Butterfield Blvd- South Property Acquisition	Costa	Bonds
2.14	Butterfield Blvd- South Property Acquisition	Royal Oaks	Bonds
2.15	Butterfield Blvd- South Property Acquisition	Lieu Quan	Bonds
2.16	Butterfield Blvd-South Consulting Services	ASSOCIATED RIGHT OF WAY SVCS	Bonds
2.17	Butterfield Blvd-South Design Services	MARK THOMAS & CO, INC	Bonds
2.19	Butterfield Blvd-South ROW and Permit Fees	UPRR	Bonds
2.20	Cochrane Rd-Traffic Signal	HATCH MOTT MACDONALD	Bonds
2.25	CRC Solar Project-Consulting Contract	NOVA PARTNERS	Bonds
2.30	Hale Avenue Extension-Environmental	David Powers and Associates	Bonds
2.32	Hale Avenue Extension-Consulting Contract	Akel Engineering	Bonds
2.33	Tennant Ave/Hwy 101 Engineering	MARK THOMAS & CO, INC	Bonds
2.34	Tennant Ave/Hwy 101 Consulting Services	STATE OF CA DEPT OF TRANS	Bonds
2.35	Tennant Ave/Hwy 101 Landscape Maintenance	West Coast Arborist	Bonds
2.37	Underground Utilities	City/PGE	Bonds
2.38	West Little Liagas Creek	SANTA CLARA VALLEY WATER DIST	Bonds

EXHIBIT C

Item # 5b



OVERSIGHT BOARD STAFF REPORT

MEETING DATE: April 16, 2012

PROPOSED BUDGET FOR FY11-12 ADMINISTRATIVE COST ALLOWANCE UNDER AB X1 26

Agenda Item #
Prepared By: <i>K. Ryan</i> Admin. Svcs. Dir.
Submitted By: <i>[Signature]</i> City Manager

RECOMMENDED ACTION:

Approve proposed budget for \$431,041 administrative cost allowance for FY 11-12

EXECUTIVE SUMMARY:

Upon dissolution of the Morgan Hill Redevelopment Agency on February 1, 2012 pursuant to AB X1 26, the City of Morgan Hill opted to become the Successor Agency to the Morgan Hill Redevelopment Agency, and thus the Successor Agency is governed by the City Council.

Pursuant to AB X1 26, the Successor Agency is required to undertake a number of actions related to winding down the affairs of the former Redevelopment Agency. For example, the Oversight Board may direct the staff of the Successor Agency to perform work in furtherance of the Oversight Board's duties and responsibilities under AB X1 26 and the Successor Agency must pay for all of the costs of meetings of the Oversight Board. In addition, the Successor Agency will have a number of ongoing responsibilities, such as paying debt service and enforceable obligations of the former Redevelopment Agency and preparing an administrative budget and Recognized Obligation Payment Schedule (ROPS) for each six-month fiscal period.

AB X1 26 provides that the Successor Agency may include the cost of Oversight Board meetings in its administrative budgets, but otherwise does not specify which expenses are appropriate for including in the administrative budget. However, allowable administrative expenses likely include, among others, the value of City staff, including employee retirement and other benefits, necessary for the administration and operations of the Successor Agency; and the cost of other resources of the City necessary for the administration and operations of the Successor Agency, such as office space, supplies, equipment, utilities, and insurance.

AB X1 26 provides for an "Administrative Cost Allowance" to annually be paid to the Successor Agency of not less than \$250,000 a year. However, in the event there are insufficient funds to pay the former Redevelopment Agency's enforceable obligations, some or all of the Administrative Cost Allowance will be used to pay for the enforceable obligations, and these funds will not be available for administrative expenses of the Successor Agency.

The Administrative Cost Allowance will exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax. However, the use of bond proceeds to pay administrative expenses is subject to certain limitations imposed by the Internal Revenue Code, so the proposed budget for the FY 11-12 administrative cost allowance does not contemplate any administrative costs being paid from bond proceeds.

The first administrative budget is for the six-month fiscal period commencing on January 1, 2012 and ending on June 30, 2012. Later, a second administrative budget will be submitted for the six-month

fiscal period commencing on July 1, 2012 and ending on December 31, 2012. The Successor Agency is required to submit each proposed administrative budget to the Oversight Board for its approval.

FISCAL/RESOURCE IMPACT:

Compared with the first seven months of FY 11-12, when the Redevelopment Agency covered the salaries and benefits of almost 6 FTE employees, the proposed Successor Agency administrative budget for the last five months of FY 11-12 would cover the salaries and benefits of less than 1 FTE employee. See the first two pages attached, plus a budget narrative and spreadsheet for details.

The total amount of the proposed administrative budget through June 30, 2012 is \$431,041, which equals 5% of the \$8,620,820 Real Property Tax Trust Fund allocation certified by the County Auditor-Controller elsewhere on this agenda for consideration and approval by the Oversight Board. This amount consists of two parts: \$149,060 of Successor Agency administrative costs as the State Department of Finance and the City define them for winding down the affairs of the former redevelopment agency, plus \$281,981 of Successor Agency program implementation and delivery costs the County Auditor-Controller believes should be paid out of the Successor Agency's Administrative Budget, rather than out of the Real Property Tax Trust Fund the Auditor-Controller manages or out of bond proceeds the City manages as Successor Agency.

The City as Successor Agency has identified over \$930,000 of program implementation and delivery costs for existing enforceable obligations. If, like the Auditor-Controller, the Oversight Board disagrees with the State Department of Finance and the City, and refuses to approve Real Property Tax Trust Fund moneys and bond proceeds as a legitimate source of payment, then City taxpayers could be forced to absorb more than \$650,000 of program implementation and delivery costs that were never contemplated, let alone budgeted, from City tax revenue at the time the former Redevelopment Agency entered into the enforceable obligations.

Finally, theoretically the administrative allowance is subject to reduction if there prove to be insufficient funds to pay the former Redevelopment Agency's enforceable obligations, but no one anticipates that will happen.

ATTACHMENTS:

1. FTE allocations for former Redevelopment Agency (1st 7 months of FY 11-12) and Successor Agency (last 5 months of FY 11-12)
2. Proposed budget for FY 11-12 administrative allowance

Exhibit C

PERSONNEL ALLOCATION 11-12 BUDGET Recommended Mid-Year Amendments	Recommended Mid-Year Amendments					Successor Agency	Successor Agency	OP Admin.	Housing Migration 236
	General Fund 910	Developer 205	Plan Upd. 207	General Admin. 207	Successor Agency				
Code Enforcement Officer		50%							50%
PL Police Records Specialist	100%								
Municipal Services Assistant		50%				10%			
DSC Business Assistant		50%		5%		5%		15%	25%
Municipal Services Assistant		20%				45%		10%	25%
Deputy City Attorney	80%			5%					2%
AGM - Community Development		45%	10%			5%		5%	10%
Support Services Supervisor		5%				5%		15%	5%
Housing Administrator									50%
Community & Econ. Dev. Director		50%	10%						20%
Police Officer	100%								
Principal Planner/Econ Dev Mgr		40%	40%			20%			
Accounting Assistant II	75%							25%	
City Manager	45%					25%		15%	
Senior Planner	25%		30%			45%			
City Attorney	50%			5%					5%
Confidential Administrative Asst.	100%					30%			

← Beginning February 1, 2012,
 City Council approved asking Oversight
 Board to cover salaries & benefits for
 < 1 FTE

Exhibit B

PERSONNEL ALLOCATION									
11-12 ADOPTED BUDGET									
Position	General Fund	Commun. Develop.	General Plan Imp.	RDA	Housing	Sewer	Water	CIP	Admin.
Code Enforcement Officer	010	286	287	317	327	540	650		
PT Police Records Specialist		25%		75%					
Municipal Services Assistant		80%		100%					
DSC Business Assistant		50%		20%	50%				
Municipal Services Assistant		20%		30%	15%	17%	18%		
Deputy City Attorney	88%			6%	6%				
ACM - Community Development		45%	10%	20%	5%	5%	5%	10%	
Support Services Supervisor		5%		10%		15%	15%	15%	55%
Housing Administrator					100%				
Community & Econ. Dev. Director		40%	10%	40%	10%				
Police Officer				100%					
Principal Planner/Econ. Dev. Mgr				80%	20%				
Accounting Assistant II	50%								
City Manager	45%	15%		40%	50%				
Senior Planner		30%	40%						
City Attorney	65%		5%	10%	20%				
Confidential Administrative Asst.	70%	10%		20%					

← Through January 31, 2012, RDA covered salaries & benefits for 5.8 FTE

CITY OF MORGAN HILL
SUCCESSOR AGENCY
PROPOSED BUDGET FOR FY11-12
ADMINISTRATIVE COST ALLOWANCE UNDER
AB X1 26

April 16, 2012

FY 11-12 Budget Narrative for:

Fund 250 -- City of Morgan Hill as Successor Agency to
the City of Morgan Hill Redevelopment Agency

Salaries and Benefits (\$118,410): Five months of salaries and benefits
for the following positions that will be involved in the wind-down of the
former redevelopment agency:

Development Services Center Business Assistant: 5 months @ 0.05 FTE,
providing administrative assistance to the positions below, and
customer service assistance to holders of enforceable obligations

Deputy City Attorney: 5 months @ 0.05 FTE, providing legal advice and
work product related to the implementation of AB X1 26

Assistant City Manager for Community Development: 5 mos. @ 0.1 FTE,
with the City Manager overseeing the dissolution of the former
redevelopment agency, the creation and of the successor agency and
the operations and directions of the Oversight Board

Principal Planner/Economic Development Manager: 5 mos. @ 0.2 FTE,
preparing the Enforceable Obligations Payment Schedule, the
Recognized Obligations Payment Schedule for January through June
2012, the Recognized Obligations Payment Schedule for July through
December 2012, liaising with holders of enforceable obligations,
answering questions from, and providing supporting documentation to,
multi-person audit teams from the State Controller's Office and the
County Auditor-Controller

City Manager: 5 months @ 0.25 FTE, with the Assistant City Manager for Community Development, overseeing the dissolution of the former redevelopment agency, the creation of the successor agency and the operations and directions of the Oversight Board

City Attorney: 5 months @ 0.3 FTE, providing legal advice, documents, and interpretation of AB x1 26 to the City Council as successor agency, to City staff, and to holders of enforceable obligations, and answering questions from underlying taxing jurisdictions

Contract Services (\$22,000): Contracts with law firms to assist City Attorney in above duties

Reallocation of Program Implementation and Delivery Costs by County Auditor-Controller from Real Property Tax Trust Fund to Administrative Cost Allowance: The City as Successor Agency agrees with the State Department of Finance that the cost of staff assigned to deliver programs is an implementation and delivery cost of the program itself, and thus should be paid from Real Property Tax Trust Fund moneys distributed by the County Auditor-Controller, or from bond proceeds. The County disagrees, and prefers that the Administrative Cost Allowance of \$431,041 (this budget) absorb the costs of all staff, regardless of whether they are delivering specific programs or winding down the affairs of the former Redevelopment Agency.

Therefore, the Auditor-Controller has reclassified nearly a million dollars of staff costs (mostly related to capital projects) on the Recognized Obligations Payment Schedule, and placed them instead in this Administrative Cost Allowance.

The net effect is to shift to City taxpayers more than \$650,000 of staff costs related to program implementation and delivery by the Successor Agency.

The resulting dollar amounts are shown at the bottom of the last page of the attached Budget documents.

Fund	Dept	Object	Description	FY11-12 YR Projection
250	7210	41100	SALARIES - GENERAL	74,491
250	7210	41271	SALARIES - PART-TIME TEMP	
250	7210	41320	EARNED LEAVE LIABILITY	13,737
250	7210	41490	OVERTIME - GENERAL	
250	7210	41560	UNEMPLOYMENT INSURANCE	1,218
250	7210	41620	RETIREMENT - GENERAL	16,761
250	7210	41690	DEFERRED COMPENSATION	2,206
250	7210	41700	GROUP INSURANCE	5,468
250	7210	41701	MEDICARE	1,063
250	7210	41730	INCOME PROTECTION INS	1,500
250	7210	41760	WORKERS COMP	663
250	7210	41799	BENEFITS	1,303
Salaries Total				118,410
250	7210	42208	ELECTRIC	50
250	7210	42214	TELEPHONE	300
250	7210	42231	CONTRACT SERVICES	22,000
250	7210	42244	STATIONERY & OFFICE SUPPLIES	400
250	7210	42252	PHOTOCOPYING	500
250	7210	42254	POSTAGE & FREIGHT	50
250	7210	42257	PRINTING	50
250	7210	42261	AUTO MILEAGE	500
250	7210	42415	CONFERENCE & MEETINGS	800
250	7210	42440	BOARDS & COMMISSIONS	1,000
Supplies Total				25,650
250	7210	45004	BUILDING MAINT - CURRENT SERVICES	2,000
250	7210	45009	INFO SYSTEM SERVICES	3,000
250	7210	45010	GF ADMIN	-
ISP Total				5,000
7210 - Successor Agency Administration Total				149,060

Plus: Program implementation and delivery costs reclassified by Auditor-Controller
that fit under Administrative Cost Allowance 281,981
Equals: Administr. Cost Allowance computed by Auditor-Controller 431,041
=====

Stranded costs: Remaining program implementation and delivery costs that will need to
be absorbed by City taxpayers if not paid by Real Property Tax
Trust Fund or bond proceeds 651,643

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (this "Agreement") is entered into as of April 25, 2012, by and between the City of Morgan Hill, a municipal corporation ("City") and the City of Morgan Hill, in its capacity as Successor Agency for the Morgan Hill Redevelopment Agency, an entity pursuant to California Health and Safety Code ("Code") §34177 et. seq. ("Successor Agency").

RECITALS:

WHEREAS, Part 1.85 of the Health and Safety Code ("Code") (commencing with §34170) ("Dissolution Act") dissolved the former Morgan Hill Redevelopment Agency (the "Former Agency") and designated the City of Morgan Hill ("City") as the Successor Agency for the Former Agency ("Successor Agency").

WHEREAS, under Dissolution Act, the Successor Agency must, among other statutory duties, perform the following duties relevant to this Agreement:

- i. Continue making payments for and perform obligations under enforceable obligations;
- ii. Dispose of assets and properties of the Former Agency; and
- iii. Continue to oversee development of properties until the contracted work has been completed, including using bond proceeds for purposes for which the bonds were sold.

Certain of the Successor Agency's actions are subject to the approval and direction of the Oversight Board to the Successor Agency, established pursuant to Chapter 4 of the Dissolution Act ("Oversight Board").

WHEREAS, Code §34178 of the Dissolution Act provides:

" . . . [A]greements, contracts, or arrangements between the city or county or City and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; *provided, however*, that a successor agency wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board." (emphasis added)

WHEREAS, Code §34180(h) gives the Oversight Board the authority to approve "a request by a successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency."

WHEREAS, in order to reimburse the City for its costs to perform its duties in its capacity as the Successor Agency, the Successor Agency has requested the Oversight Board's approval of a "Reimbursement Agreement" for categories of reimbursable costs as described below.

Reimbursable Contracts

WHEREAS, Code §33445(c) permitted the Former Agency to enter into agreements with the City to reimburse the City for the costs of acquisition of land and of buildings and improvements of redevelopment projects undertaken by the City. Pursuant to this Code Section, the City and the Former Agency entered into reimbursement agreements to pay for the City's undertaking of certain redevelopment projects of publicly-owned improvements ("Improvements").

WHEREAS, with the expectation that the Former Agency would reimburse the City for the costs of undertaking the Improvements (as memorialized through resolutions, reimbursement agreements and adopted findings), the City entered into certain contracts for the land acquisition, planning, design, contracting, construction and rehabilitation of these Improvements (including legal, engineering and appraisal services) ("Reimbursable Contracts"). The Reimbursable Contracts (and the Improvements to which each of the Reimbursable Contract relate) are set forth in Exhibit A to Resolution 6533

WHEREAS, in order for the City to continue to undertake the Improvements and to be reimbursed for the costs of the Reimbursable Contracts, and for the Successor Agency to fulfill its obligation to continue the development of certain public improvements that are already underway, a reimbursement agreement between the City and Successor Agency is necessary to reimburse the City for the costs of the Reimbursable Contracts.

Enforceable Obligations Implementing Costs.

WHEREAS, the City, now acting in its capacity as the Successor Agency, pays for employee costs (for administrative, professional, technical, financial and legal staffing), office equipment and supplies, and other apportioned operational costs, in order to:

- Implement the Improvements, including, but not limited to, construction inspection, project management, or actual construction; and
- Administer and implement Enforceable Obligations.

These costs are collectively referred to herein as "Enforceable Obligations Implementing Costs." Pursuant to the Dissolution Act, these Enforceable Obligations Implementing Costs are includable in the Recognized Payment Obligation Schedule, with identified sources of payment of such costs, and are listed in Exhibit B to Resolution 6533

WHEREAS, in order for the City to continue to pay employee and other costs to implement the Enforceable Obligations and for the Successor Agency to fulfill its obligation to satisfy its obligations under the Enforceable Obligations, a reimbursement agreement between the City and Successor Agency is necessary to reimburse the City for the costs of the Enforceable Obligations Implementing Costs.

Administrative Costs

WHEREAS, the Dissolution Act provides for an administrative costs allowance to pay for administrative costs of administering and implementing the Successor's Agencies obligations that

are not Enforceable Obligations Implementing Costs ("Administrative Costs") pursuant to an administrative cost budget approved by the Oversight Board. The City, acting in its capacity as the Successor Agency incurs employee costs, office equipment and supplies and other apportioned operational costs payable from the administrative costs allowance. The Administrative Costs budget, as approved by the Oversight Board is attached as Exhibit C to Resolution 6533

WHEREAS, in order for the City to continue to pay Administrative Costs and for the Successor Agency to carry out its administrative obligations, a reimbursement agreement between the City and Successor Agency is necessary to reimburse the City for the Administrative Costs.

WHEREAS, the Successor Agency and City wish to provide for the reimbursement to the City of the Costs of the Reimbursable Contracts, the Enforceable Obligation Implementing Costs and the Administrative Costs by entering into a Reimbursement Agreement.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

Purpose of this Agreement; Consideration

In consideration for the City's advance, assistance and administrative support in the carrying out and implementation the obligations of the Successor Agency, including its obligations to (a) continue to oversee the development of properties to completion of the Improvements, (b) administer and fulfill obligations under enforceable obligations and (c) continue the day-to-day administration of the Successor Agency, the Successor Agency agrees to pay, reimburse, advance and make whole the City pursuant to the terms of this Agreement. The parties agree that this Agreement is negotiated and intended to be binding on all parties and their respective successor agencies.

The City and the Successor Agency desire to enter into this Agreement to acknowledge the above recitals and to provide for the payment or reimbursement by the Successor Agency of the cost of the Reimbursable Contracts, the Enforceable Obligations Implementation Costs and the Administrative Costs (collectively, "Reimbursable Costs").

Amendments to Reimbursable Costs

The costs to be reimbursed shall be those set forth in Resolution 6533 as Exhibit A for Reimbursable Contracts, Exhibit B for Enforceable Obligations Implementation Costs and Exhibit C for Administrative Costs. The City and the Successor Agency agree that each of the Reimbursable Costs may be amended from time to time, subject to the Oversight Board's approval. The Successor Agency shall agree to request the Oversight Board amend this Agreement to approve reimbursement of any additional costs within the scope of the Reimbursable Costs. However, there is no assurance that the Oversight Board will approve such additional costs or that the Successor Agency will agree to pay any such additional costs.

City Performance of Reimbursable Contracts

Pursuant to the Reimbursable Contracts, the City shall perform or cause to be performed all required preparatory work for the Improvements, including the acquisition of land and shall

install and construct, or cause to be installed and constructed, the Improvements not previously installed and constructed. The City shall cause to be undertaken the design of the Improvements and the preparation of plans and specifications therefor. The City shall, in accordance with all applicable federal, state and local laws, rules and regulations, install and construct, or cause to be installed and constructed, the Improvements in accordance with such plans and specifications. The acquisition of land and the planning, specification and the timing with respect to the installation and construction of the Improvements shall be subject to the City's sole and absolute discretion.

In consideration of this Agreement, the City agrees to exercise its best efforts to acquire land by negotiated purchase all land necessary to implement the Reimbursable Contracts.

City to Provide Staff for Administration of Successor Agency Obligations

City, acting in its capacity as Successor Agency, agrees to pay all salaries, benefits and costs of employees performing the work of the Successor Agency in administering enforceable obligations and the duties and obligations of the Successor Agency, as set forth in Exhibit B and Exhibit C to Resolution 6533.

Reimbursable Costs are Enforceable Obligations

The Successor Agency and the City hereby agree that the obligation of the Successor Agency to reimburse the City for Reimbursable Costs is "enforceable obligations" under the Dissolution Act.

Reimbursement by the Successor Agency

The City shall, from time to time, following completion of the various Improvements, or various portions thereof, submit to the Successor Agency invoices (including itemized statements) showing the cost of the Improvements incurred by the City under the Reimbursable Contracts, including the acquisition of necessary land, due to be paid by the Successor Agency pursuant to this Agreement. Such amounts may include progress payments. The City shall, on a monthly basis, submit to the Successor Agency an itemized statement showing the costs of implementing the enforceable obligations and of administering the Successor Agency, as set forth in Exhibits B and Exhibit C to Resolution 6533.

Within a reasonable time after the submission of each statement and invoice to the Successor Agency, the Successor Agency shall pay or cause to be paid to or for the benefit of the City all amounts due thereunder from the source of funds identified in the Successor Agency's Recognized Obligation Payment Schedule as provided for in Code §34177 or any successor statutory provision, or from any other available funds of the Successor Agency or funds set forth in the Dissolution Act. Amounts not paid by the Successor Agency to the City within 30 days of demand therefor pursuant to this Agreement shall bear interest at the quarterly average rate then paid to the City on its funds invested in the Local Agency Investment Fund ("LAIF"), from the date of such demand to the date of repayment.

Term, Effect and Duration of Covenants

This Agreement shall remain in effect until all of the City's obligations and payments due under the Reimbursable Contracts and all Enforceable Obligations Implementation Costs and all Administrative Costs are satisfied and paid in full and all claims, lawsuits or litigation arising from obligations under this Agreement are settled or adjudged by a final judgment of a court of competent jurisdiction. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the parties hereto and their successors in interest.

Nonliability of Officials and Employees

No Successor Agency member, members of Successor Agency Oversight Board, Councilmember, official, agent, or employee of the Successor Agency or the City shall be personally liable to the other parties, or any successor in interest, in the event of any default or breach by the Successor Agency or the City, or for any amount which may become due to the City or Successor Agency, or successor thereto, or on any obligations under the terms of this Agreement.

Obligation to Refrain from Discrimination

The City covenants and agrees for itself, its successors and its assigns that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of California Government Code §12955, as those bases are defined in California Government Code §§12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of §12955, and §12955.2, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Improvements, nor shall the City, or any person claiming under or through the City, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Improvements.

Notwithstanding the immediately preceding paragraph, with respect to familial status, said paragraph shall not be construed to apply to housing for older persons, as defined in California Government Code §12955.9. With respect to familial status, nothing in said paragraph shall be construed to affect California Civil Code §§51.2, 51.3, 51.4, 51.10, 51.11, and 799.5, relating to housing for senior citizens. California Civil Code §51 Subdivision (d) and §1360 and California Government Code §12955 subdivisions (n), (o) and (p) shall apply to said paragraph.

Default

If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract. The rights and remedies of the non-defaulting party enumerated in this

paragraph are cumulative and shall not limit the non-defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party. All notices of defaults shall clearly indicate a notice of default under this Agreement.

Future Cooperation; Advance Funding

The parties hereto agree to take all appropriate steps and execute any documents which may reasonably be necessary or convenient to implement the intent of this Agreement. Further steps may include, but are not limited to, the entering into agreements for the transfer of ownership of land, capital improvements or public improvements to the City for the purposes set forth in this Agreement.

Invalidity of Prior Agreements

It is the parties' understanding that the Dissolution Act makes invalid any prior reimbursement agreements entered into by the Former Agency and the City. The parties intend that this Agreement is to "reenter" (for the purpose of such term as set forth in Code §34178(a)) and shall supersede previous reimbursement agreements insofar as the provisions of such former agreements apply to the Reimbursable Contracts, the Enforceable Obligations Costs or the Administrative Costs provided, however, that, should any court of competent jurisdiction decide in a final judgment that the former agreements are not invalidated by the Dissolution Act or that the Dissolution Act is not enforceable to invalidate the former agreements, the former agreements shall supersede this Agreement.

Records

Each party shall maintain books and records regarding its duties pursuant to this Agreement. Such books and records shall be available for inspection by the officers and agents of the other party at all reasonable times.

Law Governing

This Agreement is made in the State of California under the constitution and laws of the State of California, and is to be so construed.

Amendments

This Agreement may be amended at any time, and from time to time, by an agreement executed by both parties to this Agreement.

Severability

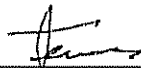
If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Agreement is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Agreement.

and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivision, sentences, clauses, phrases, words, or portions thereof be declared invalid.

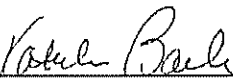
Interpretation

Parties agree that this Agreement was jointly negotiated and drafted and shall be interpreted as such. This Agreement shall not be interpreted or construed against any one party as if it was drafted by any such party.

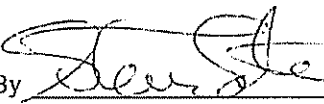
CITY OF MORGAN HILL, acting in its capacity as Successor Agency for Morgan Hill
Redevelopment Agency

By 
Edward Tewes, City Manager

ATTEST:

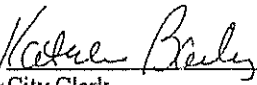
By 
Deputy City Clerk

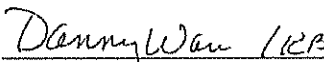
CITY OF MORGAN HILL

By 
Steve Tate, Mayor

ATTEST:

APPROVED AS TO FORM


Deputy City Clerk


City Attorney

Approved by the Oversight Board: April 16, 2012
Resolution OB-002