

RESOLUTION NO. OB-2016-16

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE TAFT COMMUNITY DEVELOPMENT AGENCY APPROVING A SETTLEMENT AGREEMENT AND MUTUAL RELEASE REGARDING STATUTORY PASS THROUGH OBLIGATIONS AMONG THE SUCCESSOR AGENCY, THE KERN COUNTY SUPERINTENDENT OF SCHOOLS AND THE TAFT CITY SCHOOL DISTRICT AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, prior to February 1, 2012, the Taft Community Development Agency (the “Former Agency”) was a community redevelopment agency duly organized and existing under the California Community Redevelopment Law (Health and Safety Code Section 33000, et seq.), and was authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council of the City of Taft; and

WHEREAS, Assembly Bill 1x 26, chaptered and effective on June 28, 2011, added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former agencies (as amended from time to time, the “Dissolution Act”); and

WHEREAS, as of February 1, 2012 the Former Agency was dissolved pursuant to the Dissolution Act and the Successor Agency to the Taft Community Development Agency (“Successor Agency”) serves as the successor agency to the Former Agency; and

WHEREAS, the Successor Agency administers the enforceable obligations of the Former Agency and otherwise unwinds the Former Agency’s affairs, all subject to the review and approval by a seven-member oversight board (“Oversight Board”); and

WHEREAS, the Former Agency was obligated to make certain statutory pass through payments to various affected taxing agencies, including the Kern County Superintendent of Schools and the Kern County School District, pursuant to Health and Safety Code Section 33676 (“Tax Sharing Payments”); and

WHEREAS, at all relevant times, the Tax Sharing Payments were calculated and disbursed by the Kern County Auditor-Controller (“KCAC”) on the behalf of the Former Agency; and

WHEREAS, the Kern County Superintendent of Schools and the Kern County School District (collectively, the “Taxing Agencies”) and the Successor Agency are currently parties (together with other entities that have not asserted claims against the Successor Agency) to the following legal proceeding: *Kern County Superintendent of Schools, et al. v. Successor Agency to the Dissolved Arvin Redevelopment Agency, et al.*, pending in the Kern County Superior Court (Case No. BCV-15-100357) (the “Action”); and

WHEREAS, the Action includes, among other things, claims by the Taxing Agencies that the Successor Agency owes the Taxing Agencies certain monetary amounts due to underpayment of the Tax Sharing Payments for fiscal years 2008-09, 2009-10 and 2010-11; and

WHEREAS, the Taxing Agencies allege that the underpayments of the Tax Sharing Payments were the result of KCAC incorrectly calculating the Tax Sharing Payments; and

WHEREAS, the Successor Agency and the Taxing Agencies have negotiated the terms of a Settlement Agreement and Mutual Release Regarding Statutory Pass Through Obligations (“Agreement”), in substantially the form attached to this Resolution as Exhibit A and incorporated herein; and

WHEREAS, the Agreement provides that the Successor Agency will place certain payments (defined in the agreement as the “Payments”) on ROPS 16-17 (covering the period from July 1, 2016 through June 30, 2017) and, subject to approval by the Oversight Board and the California Department of Finance (“DOF”), will make the Payments to the Taxing Agencies as provided in the Agreement; and

WHEREAS, in consideration of the Successor Agency’s agreement to place the Payments on the ROPS and, subject to Oversight Board and DOF approval, to make the Payments, the Agreement requires the Taxing Agencies to indemnify the Successor Agency and the City from and against all claims or damages relating to the Payments, the Tax Sharing Payments, the Taxing Agency Allegations or the Agreement, and to release and waive any further claims relating to the Tax Sharing Payments; and

WHEREAS, the Oversight Board has duly considered all terms and conditions of the proposed Agreement and believes that the Agreement is in the best interests of the taxing agencies and in accord with the public purposes and provisions of applicable State and local law requirements.

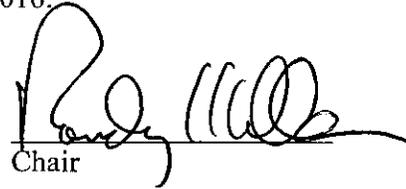
NOW, THEREFORE, BE IT RESOLVED by the Oversight Board to the Successor Agency to the Taft Community Development Agency as follows:

1. Each of the foregoing recitals is true and correct.
2. The Oversight Board hereby finds and determines that the Agreement is in the best interests of the affected taxing agencies.
3. The Oversight Board hereby approves the Agreement in substantially the form submitted herewith and authorizes the Successor Agency to place the Payments on the ROPS 16-17 (covering the period from July 1, 2016 through June 30, 2017).
4. The Chair and Secretary of the Oversight Board shall sign the passage and adoption of this Resolution.
5. The Successor Agency is hereby directed to transmit this Resolution and the accompanying staff report and all exhibits thereto, each of which is incorporated herein, to the DOF pursuant to Health and Safety Code Sections 34179(h).

6. This Resolution shall take effect upon approval hereof by the DOF or failure of DOF to request review within five days following receipt of this Resolution.

[Signatures on subsequent page]

ADOPTED this 28th day of January, 2016.


Chair

AYES: Members: Miller, Binkley, Koenig, Orrin
 ~~Noerr, Bryant, Hill, Miller~~

NOES: Members: None

ABSTAIN: Members: None

NOT PRESENT: Members: ~~Krier~~ Bray, McMurray, Hitchcock

CERTIFICATION OF ATTESTATION AND ORIGINALITY

I, Yvette Mayfield, Secretary of the Oversight Board to the Successor Agency to the Taft Community Development Agency, do hereby attest to and certify the attached Resolution No. OB-2016-16 to be the original resolution adopted by the Oversight Board to the Successor Agency to the Taft Community Development Agency on January 28, 2016.

Date: January 28, 2016


Oversight Board Secretary