CITY OF
OXNARD
CALIFORNIA

Meeting Date: 12/11/12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	■ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Kymberly Horner, Interim Redevelopment Services Manager KH Agenda Item No. I-5

Reviewed By: City Manager KB City Attorney AA Finance JC Other N/A

DATE: November 29, 2012

TO: City Council
Community Development Commission Successor Agency

FROM: Curtis P. Cannon
Community Development Director

SUBJECT: **Administrative Services Agreement for Advance Reimbursement of Administrative, Overhead and Other Expenses**

RECOMMENDATION

That the City Council approve and authorize the Mayor to sign the Administrative Services Agreement (A-7556) for Advance and Reimbursement of Administrative, Overhead and Other Expenses between the City of Oxnard ("City") and the Oxnard Community Development Commission Successor Agency ("Successor Agency").

That the Successor Agency, approve and authorize the Chairman to sign the Administrative Services Agreement for Advance and Reimbursement of Administrative, Overhead and Other Expenses between the City and Successor Agency.

DISCUSSION

As part of the FY 2012-13 State Budget package, on June 27, 2012, the Legislature passed and the Governor signed AB 1484. The primary purpose of this bill is to make technical substantive amendments to the Dissolution Act of ABx1 26, based on the experience to date at the State level in implementing ABx1 26. As a budget "trailer bill," AB 1484 took immediate effect upon signature by the Governor.

Section 34177 (h) of AB 1484 required the Successor Agency to wind down the business and fiscal affairs of the Redevelopment Agency expeditiously, while section 34171(d)(1)(f) of AB 1484 allows the Administrative Services Agreement to be considered as an "enforceable obligation" of the Successor Agency and permits the City's advancement to be paid back by the Successor Agency with the Redevelopment Property Tax Trust Fund ("RPTTF"). However, sections 34178(a) and 34180(h) of AB 1484 require the Successor Agency Oversight Board's approval of the agreement.

The Administrative Services Agreement requires the City to make available to the Successor Agency its staff, facilities, services and other resources including without limitation, consultants, legal counsel, office space, equipment, supplies and insurance necessary to wind down the Oxnard Community Development Commission Successor Agency expeditiously pursuant to section 34177 (h) of AB 1484. The City shall prepare and present to the Successor Agency an invoice for the advances that the City made to the Successor Agency as of the end of each six-month fiscal period, beginning with the fiscal period commencing on July 1, 2012 and ending on December 31, 2012. The Successor Agency shall pay the invoice in full from the available property tax funds. Any unpaid amounts of the invoice shall be carried over to each subsequent six-month fiscal period as an enforceable obligation owed to the City pursuant to the Administrative Services Agreement. This Administrative Services Agreement will provide flexibility to meet enforceable obligations of the Successor Agency as they become due.

FINANCIAL IMPACT

Approval of this action will alleviate impacts to the City's General Fund.

Attachment 1 – Administrative Services Agreement

ADMINISTRATIVE SERVICES AGREEMENT (A-7556)

THIS ADMINISTRATIVE SERVICES AGREEMENT (this "**Agreement**") is entered into as of the 11th day of December, 2012, by and between the CITY OF OXNARD, a municipal corporation (the "**City**") and the OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY, a public body, corporate and politic (the "**Successor Agency**"), with reference to the following facts:

WHEREAS, the Oxnard Community Development Commission (the "**Commission**") was a redevelopment agency in the City of Oxnard, duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the "**CRL**"); and

WHEREAS, the Commission was responsible for the administration of redevelopment activities within the City; and

WHEREAS, pursuant to Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) signed by the California Governor on June 28, 2011 ("**AB 26**"), as modified by the California Supreme Court on December 29, 2011 pursuant to its decision in *California Redevelopment Association v. Matosantos*, which amended, among other statutes, the CRL, all California redevelopment agencies, including the Commission, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the Successor Agency is a legal entity that exists separate and independent from the City; and

WHEREAS, on February 1, 2012, any and all assets, properties, contracts, leases, books and records, buildings and equipment of the Commission were transferred by operation of law to the control of the Successor Agency, and all authority, rights, powers, duties and obligations previously vested in the Commission were vested in the Successor Agency, for administration pursuant to Part 1.85 of AB 26; and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484, Chapter 26, Statutes 2012 ("**AB 1484**"). Although the primary purpose of AB 1484 is to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies; and

WHEREAS, the Successor Agency is required to undertake several actions pursuant to Part 1.85 of AB 26 as amended by AB 1484 including, without limitation, to expeditiously wind down the business and fiscal affairs of the Commission pursuant to California Health and Safety Code Section 34177(h) of AB 1484; and

WHEREAS, pursuant to California Health and Safety Code Sections 34178(a) and 34180(h) of AB 1484, the Successor Agency, with the prior approval of its oversight board (the "**Oversight Board**"), may enter into agreements with the City; and

WHEREAS, California Health and Safety Code Section 34171(d)(1)(F) of AB 1484 defines an "enforceable obligation" to include contracts or agreements necessary for the administration or operation of the Successor Agency. As of February 1, 2012, pursuant to AB 26 and AB 1484, property taxes are allocated from the Commission's redevelopment project areas (the "**Project Areas**") to the County of Ventura and then to the Successor Agency for payment of enforceable obligations of the Commission and the Successor Agency; and

WHEREAS, in connection with the administration and operations of the Successor Agency and the performance of the Successor Agency's duties, responsibilities and obligations under AB 26 and AB 1484, the Successor Agency is and will be utilizing the staff, facilities and other resources of the City; and

WHEREAS, the City Manager of the City serves as the Executive Director of the Successor Agency, the Chief Financial Officer of the City serves as the Chief Financial Officer of the Successor Agency, the City Attorney of the City serves as the General Counsel of the Successor Agency, and the City Clerk of the City serves as the Secretary of the Successor Agency. Planning, finance, engineering, public works and other City departments devote and are expected to devote substantial time with respect to the administration and operations of the Successor Agency and assisting the Successor Agency to perform its duties, responsibilities and obligations under AB 26 and AB 1484. Such efforts include, without limitation, gathering information relating to the enforceable obligations of the Commission and the Successor Agency, conferring with public officials representing governmental agencies and departments in the implementation of AB 26 and AB 1484 and undertaking other activities in connection with winding down the affairs of the Commission; and

WHEREAS, by providing and making available to the Successor Agency the staff, facilities, services and other resources of the City including, without limitation, consultants, legal counsel, office space, equipment, supplies and insurance necessary to the administration and operations of the Successor Agency, the City has advanced and will continue to advance the cost of the foregoing to the Successor Agency; and

WHEREAS, the City and the Successor Agency desire to enter into this Agreement to acknowledge the foregoing recitals and to provide for an appropriate method of reimbursement by the Successor Agency to the City of such advances; and

WHEREAS, the obligations set forth in this Agreement will be contractual obligations that, if breached, will subject the Successor Agency to damages and other liabilities or remedies; and

WHEREAS, by approving and entering into this Agreement, the obligations of the Successor Agency under this Agreement shall constitute an indebtedness and enforceable

obligation of the Successor Agency, and the Successor Agency shall have approved the pledge of net available property tax revenues from the Project Areas to provide for reimbursement by the Successor Agency to the City of such advances.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. INTRODUCTORY PROVISIONS

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

II. CITY'S OBLIGATIONS

1. The City shall make available to the Successor Agency its staff, facilities, services and other resources including, without limitation, consultants, legal counsel, office space, equipment, supplies and insurance necessary to the administration and operations of the Successor Agency. The Successor Agency shall have access to the foregoing staff, facilities, services and other resources of the City.

2. The value of the City staff, including all employee retirement and other benefits, facilities, services and other resources of the City including, without limitation, office space, equipment, supplies and insurance necessary to the administration and operations of the Successor Agency made, and to be made, available to the Successor Agency for each six-month fiscal period, beginning with the fiscal period commencing on July 1, 2012 and ending on December 31, 2012, determined in accordance with Section II(3) of this Agreement, shall constitute an advance to the Successor Agency by the City for each six-month fiscal period, to be repaid in accordance with Section III(2) of this Agreement.

3. Following the end of each six-month fiscal period, beginning with the fiscal period commencing on July 1, 2012 and ending on December 31, 2012, the City Manager or his/her designee shall prepare and present to the Successor Agency an invoice for (i) the value of City staff, including all employee retirement and other benefits, based on time records prepared by City staff, which shall describe the time devoted exclusively to matters directly related to the administration and operations of the Successor Agency; (ii) the value of consultants and legal counsel based on invoices for services devoted exclusively to matters directly related to the administration and operations of the Successor Agency; (iii) the fair rental value of office space and equipment made available to the Successor Agency and (iv) the value of supplies, insurance and other services and facilities provided by the City to the Successor Agency.

III. SUCCESSOR AGENCY'S OBLIGATIONS

1. The invoice received by the Successor Agency from the City pursuant to Section II(3) of this Agreement shall constitute an enforceable obligation of the Successor Agency due and payable from distributions of property tax received by the Successor Agency.

2. Within a reasonable time after the City submits an invoice to the Successor Agency following the end of each six-month fiscal period pursuant to Section II(3) of this Agreement, beginning with the fiscal period commencing on July 1, 2012 and ending on December 31, 2012, the Successor Agency shall pay to the City the amount of the invoice from available property tax funds received by the Successor Agency. In the event that insufficient property tax funds are available to the Successor Agency to pay the invoice in full, any unpaid amounts of the invoice shall be carried over to each subsequent six-month fiscal period as an enforceable obligation owed to the City pursuant to this Agreement until the invoice amount is paid in full.

3. The indebtedness of the Successor Agency under this Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes or other instruments of indebtedness (all referred to herein as "**indebtedness**") of the former Commission incurred or issued to finance the Project Areas, including, without limitation, any pledge of tax increment revenues from the Project Areas to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any bond or bonds issued or sold by the former Commission with respect to the Project Areas.

IV. LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by California Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in California Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of California Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of California Government Code Section 895.2.

V. GENERAL PROVISIONS

1. The parties hereto agree to take all appropriate actions and to execute any documents which may reasonably be necessary or convenient in order to implement the intent and purposes of this Agreement.

2. Each party shall maintain books and records regarding its respective 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.

3. 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.

4. This Agreement will become effective upon the approval of the Oversight Board, subject to the review and approval of the California Department of Finance if timely requested under AB 1484.

5. This Agreement may be amended at any time, and from time to time, by an agreement executed by both parties to this Agreement and approved by the Oversight Board, subject to the review and approval of the California Department of Finance if timely requested under AB 1484.

6. This Agreement may be executed in duplicate originals, each of which is deemed to be an original. This Agreement consists of six pages, which constitute the entire understanding and agreement of the parties.

7. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the specific subject matter of this Agreement.

8. This Agreement is intended solely for the benefit of the Successor Agency and the City. Notwithstanding any reference in this Agreement to persons or entities other than the Successor Agency and the City, there shall be no third party beneficiaries under this Agreement.

9. All waivers of the provisions of this Agreement must be in writing and signed by the authorized representatives of the parties.

10. If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

11. This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law. This Agreement shall survive any full or partial merger of the Successor Agency and the City and shall remain separate obligations of the Successor Agency and the City and be fully enforceable according to its terms.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY

CITY OF OXNARD, a municipal corporation

_____
Tim Flynn, Mayor

APPROVED AS TO FORM:

_____
Alan Holmberg, City Attorney

SUCCESSOR AGENCY

OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY, a public body, corporate and politic

_____
Tim Flynn, Chairman

APPROVED AS TO FORM:

_____
Alan Holmberg, General Counsel