



**Berkeley
Redevelopment
Successor Agency**

OVERSIGHT BOARD MEETING AGENDA

Monday, January 26, 2015
4:00 P.M.

Location

Douglas Fir Room
2120 Milvia Street, 1st Floor
Berkeley, CA

All agenda items are for Discussion and Possible Action.

Public Comment Policy: *Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.*

1. Roll Call
2. Public Comment
3. Agenda Approval
4. Approval of Minutes of December 1, 2014, 2014 Meeting [Attachment 1]
5. Election of Oversight Board Chair and Vice-Chair for the term beginning January 1, 2015 – December 31, 2016.
6. Consider Adoption of a Resolution Approving a Bond Proceeds Expenditure Agreement to transfer the remaining 2005 Refunding Tax Allocation Bonds

Oversight Board Meeting
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proceeds from the Successor Agency to the City of Berkeley and Approving the Bond Spending Plan [Attachment 2]

7. Consider Approving the Transfer of Housing Assets from the Successor Agency to the City Acting as Successor Agency for Housing [Attachment 3]
8. Announcements
 - Special meeting to adopt ROPS 15-16A (for the period of July 1, 2015 through December 31, 2015); schedule February 23, 2015.
9. Future Agenda Items
10. Adjourn

ATTACHMENTS:

1. Draft Minutes of December 1, 2014, Oversight Board Meeting
2. Staff Report, Bond Proceeds Expenditure Agreement
 - Exhibit A: Bond Proceeds Expenditure Agreement
3. Staff Report, Transfer of Housing Assets from the Successor Agency to the Housing Successor Agency
 - Exhibit A: Public Notice – Transfer of D&E and Delaware Street Historical Development properties to Housing Successor Agency



Time: 4:02 p.m.

Douglas Fir Room
Permit Service Center
2120 Milvia Street – Berkeley, CA
Secretary – Lourdes Chang, (510) 981-5419

Draft Minutes of the December 1, 2014 Oversight Board Meeting

1. Attendance: Present: Arreguin (arrived 4:10 p.m.), Decredico, Hardaway, Riddle and Rinne. Absent: Brooks (Alternate for Keith Carson); and Harper. Staff: Angstadt and Chang. Members of the Public: 0

2. Public Comment.

None.

3. Agenda Approval

A motion to approve the agenda was passed. [M/S/C: Decredico/Rinne. Ayes: Decredico, Hardaway, Riddle and Rinne. Noes: None. Abstentions: None. Oversight Board Chair Arreguin arrived after the vote.]

4. Approval of Minutes of September 26, 2014, 2014 Meeting

A motion to approve the minutes of the September 26, 2014 meeting was passed. [M/S/C: Decredico/Rinne. Ayes: Decredico, Hardaway, Riddle and Rinne. Noes: None. Abstentions: None. Oversight Board Chair Arreguin arrived after the vote.]

5. Review and Approve the Long-Range Property Management Plan

Staff reviewed the Long-Range Property Management Plan and received comments from the board. Successor Agency staff will retain a contractor to assist the agency in the sale of the two properties for highest and best use: (1)

vacant undeveloped site/community garden located on 1631 Fifth Street; and (2) vacant single family dwelling on 1654 Fifth Street. Under a close-out agreement with the US Department of Housing and Urban Development (HUD), any proceeds from the sale of these two properties must be returned to the Community Development Block Grant Program fund to be used for CDBG-eligible activities. There are two remaining parcels with ground leases expiring on October 15, 2051. Staff recommended these properties be transferred to the City and held for the remainder of the lease term. Any proceeds from the lease of the property are also subject to the CDBG Close-Out Agreement with HUD and must be returned to the CDBG Program fund to be used for CDBG-eligible activities.

A motion was passed to approve the Long-Range Property Management Plan as recommended by staff. [M/S/C: Hardaway/Riddle. Ayes: Arreguin, Decredico, Hardaway, Riddle and Rinne. Noes: None. Abstentions: None]

6. Consider Changing the Term of Office for Oversight Board Chair and Board Vice Chair and Elect Officers for the New Term, effective January 1, 2015 – December 31, 2016

A motion was passed to change the term of office from one year to two years and amend the by-laws to reflect this change. The board will elect a Chair and Vice-Chair for two-year terms in January and will be so noted in Sections IV. D and E of the by-laws. [M/S/C: Riddle/Hardaway. Ayes: Arreguin, Decredico, Hardaway, Riddle and Rinne. Noes: None. Abstentions: None]

7. Announcements

- The next regularly scheduled meeting is January 26, 2015.

8. Future Agenda Items

- Election of Chair and Vice-Chair for Two-Year Term, January 2015 through December 2016
- Review/Approve Bond Proceeds Expenditure Agreement and Bond Spending Plan and transfer the remaining 2005 Refunding Tax Allocation Bonds proceeds from the Successor Agency to the City of Berkeley

9. Adjourn.

The meeting was adjourned at 4:15 p.m. (M/S/C: Riddle/Rinne. Unanimous)

Approved on _____, 2015

_____, Lourdes Chang, Secretary



*Berkeley
Redevelopment
Successor Agency*

STAFF REPORT
JANUARY 26, 2015

To: Berkeley Redevelopment Successor Agency Oversight Board
From: Eric Angstadt, Director, Planning and Development
Subject: Approve Bond Proceeds Expenditure Agreement and Bond Spending Plan

RECOMMENDATION

Adopt a Resolution approving a Bond Proceeds Expenditure Agreement to transfer the remaining 2005 Refunding Tax Allocation Bonds proceeds from the Successor Agency to the City of Berkeley and the Bond Spending Plan.

FISCAL IMPACTS OF RECOMMENDATION

The Excess Bond Proceeds have been on deposit with the Bank of New York Trust Company, pending the Finding of Completion and authorization to spend the bond proceeds. There is no fiscal impact to the Successor Agency to transfer these funds to the City.

CURRENT SITUATION AND ITS EFFECTS

The Successor Agency received its Finding of Completion from the State Department of Finance (DOF) on July 31, 2014. Section 34191.4(c) of the Health and Safety Code allows the Successor Agency to use bond proceeds remaining from bonds issued prior to 2011. The Bond Proceeds Expenditure Agreement and Bond Spending Plan provide for the Successor Agency to transfer the Excess Bond Proceeds from the 2005 Refunding Tax Allocation Bonds to the City in an amount not to exceed \$579,488 of unspent bond proceeds plus any potential interest earned prior to transfer.

Upon approval of the Bond Proceeds Expenditure Agreement and Bond Spending Plan by the Oversight Board and the DOF, the Excess Bond Proceeds will be eligible for transfer to the City to fund the following projects: 1) Bicycle Crossing Improvement, 2) NW Berkeley sidewalk paving and 3) Conduct Gilman overcrossing preliminary study.

On January 20, 2015, the Agency adopted Resolution No. 12, authorizing the Executive Officer to approve the Bond Proceeds Expenditure Agreement to transfer the remaining 2005 Refunding Tax Allocation Bonds proceeds from the Successor Agency to the City of Berkeley and the Bond Spending Plan.

BACKGROUND

As part of the State-mandated process to dissolve redevelopment agencies, the Successor Agency may create new enforceable obligations to expend excess unencumbered bond proceeds. The former Redevelopment Agency issued the 2005 Refunding Tax Allocation Bonds in September 2005, which provided proceeds of \$7,880,000 to fund the development of affordable housing and capital projects. Upon dissolution of the former Redevelopment Agency, there remains \$579,488 in unspent and unencumbered bond proceeds for capital projects. In addition, there is \$788,000 in reserves that will be used to make the final debt service payment of \$926,494 due on June 1, 2015.

On April 27, 2010, the former Berkeley Redevelopment Agency adopted Resolution No. 1,269 authorizing the use of West Berkeley Redevelopment Project Area funds to fund West Berkeley Circulation Improvement Projects outside the project area to provide improvements to all modes of transit including vehicular, transit, walking and biking to reduce congestion and barriers to access to the Project Area. The Agency reserved the ability to reprioritize projects or undertake additional activities depending on the economic climate and project progress.

In evaluating the feasibility and project progress, it has been determined that with the exception of two projects proposed for construction in the Five-Year Implementation Plan for the West Berkeley Project Area, all have been completed in coordination with larger Public Works projects.

The first uncompleted project, which is located within the project area, is the Bicycle Crossing Improvement Project connecting Virginia and Channing bike boulevards to bike bridge by designating 5th Street (between Virginia and Hearst), 4th Street (between Hearst and Channing) and Hearst (between 5th and 4th Streets) as bike boulevards and apply bike intersection treatment 1 (signage and striping) to 3 key arterials crossing the 9th Street bike boulevard.

The second uncompleted project, located outside the project area, is to pave sidewalks in Northwest Berkeley residential areas adjacent to James Kenney Park on 7th and 8th streets where there are currently no sidewalks, limiting project area residents access to their closest recreational resources. Additionally, residents face gaps to nearby commercial resources and transit corridors with lack of pavement along 9th between Cedar and Page, along the west side of 8th between Camelia and Gilman, along the east side of 7th between Camelia and Harrison, and along Harrison between 7th and 8th. Performing the work will bridge the gap and eliminate the safety concerns associated with the condition.

Staff also reviewed the West Berkeley Circulation Plan Report and the Berkeley Pedestrian Master Plan to determine whether there are any recommended projects in the West Berkeley Redevelopment Project area and found no such projects. As such,

we are recommending allocating the remaining balance of the bond proceeds for a preliminary study of the Gilman overcrossing. The Gilman interchange is proposed to be improved with installation of a pair of roundabouts in place of the existing multi-legged partial-stop controlled intersections of Gilman Street, Frontage Roads and freeway ramps. Although roundabouts provide better capacity and safety for vehicles, they preclude or do not function well with signal-controlled at-grade pedestrian crossings. A pedestrian bridge over I-80 at Gilman has been proposed to provide a safe and convenient pedestrian and bike path of travel for residents of West Berkeley (east of the freeway) to reach the Bay trail and sports fields on the west side of the freeway. The roundabout portion of the project completed the Project Study Report (PSR) phase with Caltrans in 2014 and is ready to move into the environmental impact study phase, followed by design, and ultimately construction by 2020. In order to include the pedestrian bridge/overcrossing in the design and construction of the interchange with funding already available from Measure BB, it is necessary to prepare a conceptual feasibility study of the pedestrian overcrossing to define the likely configuration, location, connections to existing bike and pedestrian facilities, and the type of structure. Please see the recommended Bond Spending Plan below.

Bond Spending Plan

Project Description	Project Costs
Bicycle Crossing Improvement Project connecting Virginia and Channing bike boulevards to bike bridge by designating 5 th Street (between Virginia and Hearst), 4 th Street (between Hearst and Channing) and Hearst (between 4 th and 5 th Streets) as bike boulevards and apply bike intersection treatment 1 (signage and striping) to 3 key arterials crossing the 9 th Street Bike Boulevard.	\$ 100,000.00
Pave sidewalks (full block) adjacent to James Kenney Park on 7 th and 8 th (between Virginia and Delaware), along 9 th between Cedar and Page, along the west side of 8 th between Camelia and Gilman, along the east side of 7 th between Camelia and Harrison and along Harrison between 7 th and 8 th .	\$ 300,000.00
Conduct Gilman overcrossing preliminary study	\$ 179,488.00
Total Bond Spending Plan	\$ 579,488.00

In accordance with AB 1484, Health and Safety Code Section 34191.4(c) (1) and (2), bond proceeds shall be used for the purposes for which the bonds were sold. Section (c) (2) expressly allows the creation of new enforceable obligations to expend the excess bond proceeds in a manner consistent with the original bond covenants. The new obligations must be listed separately on the Recognized Obligation Payment Schedule (ROPS) submitted by the Successor Agency. If the Oversight Board concurs with the list, the projects will be separately listed on the next applicable ROPS as projects to be funded from unencumbered bond proceeds and submitted to the DOF for approval.

ENVIRONMENTAL SUSTAINABILITY

Improvements to bicycle and pedestrian infrastructure support Climate Action plan goals of enhanced alternative transportation options leading to reduced vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

Adoption of an Expenditure Agreement and a Bond Spending Plan will allow the City, acting as Successor Agency, to comply with State law that governs the use of unspent and unencumbered bond proceeds remaining from bonds issued prior to 2011.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 510-981-7401

Attachments:

1: Resolution

Exhibit A: Bond Proceeds Expenditure Agreement

RESOLUTION NO. ##,###-N.S.

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF BERKELEY APPROVING AN EXPENDITURE AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY AND THE CITY OF BERKELEY FOR THE 2005 REFUNDING TAX ALLOCATION BONDS AND A BOND SPENDING PLAN

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

WHEREAS, pursuant to Health and Safety Code Section 34173(g), as added by the Dissolution Law, the Successor Agency is a separate legal entity from the City of Berkeley (the "City"); 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, the Berkeley Redevelopment Agency (the "Redevelopment Agency") previously issued its 2005 Refunding Tax Allocation Bonds which provided proceeds of \$7,880,000 to fund the development of affordable housing and capital projects; and

WHEREAS, upon dissolution of the former Redevelopment Agency, \$579,488 derived from proceeds of the 2005 Refunding Taxable Bonds remained unspent and unencumbered ("Excess Bond Proceeds").

WHEREAS, under AB 1484, which became effective June 27, 2012, the Successor Agency may designate the use of and commit excess Bond Proceeds for purposes in a manner consistent with the relevant bond covenants and the Community Redevelopment Law, subject to the provisions of Health and Safety Code Section 34176(g); and

WHEREAS, Health and Safety Code Section 34176(g) states that the Successor Agency's designation of the commitment and use of excess Bond Proceeds must be listed on the Successor Agency's Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, the Successor Agency and the City desire to enter into a Bond Expenditure Agreement (the "Agreement"), substantially in the form on file with the

Oversight Board's Designated Contact Official, to enable the City to use the Excess Bond Proceeds for the redevelopment purposes for which the tax allocation bonds were sold, in a manner consistent with the bond covenants, by undertaking projects, programs and activities that were not previously funded and obligated by the Successor Agency prior to the enactment of the Redevelopment Dissolution Law; and

WHEREAS, the expenditure of Excess Bond Proceeds in accordance with this Agreement will benefit the affected taxing entities, because such expenditures will help eliminate physical, economic, and social burdens within the applicable project area and promote the public peace, health, safety, and welfare through the construction of certain multi-modal infrastructure improvements designed to facilitate access within and to and from the Project Area, thereby increasing the economic vitality of the areas through increased property tax revenues, sales tax revenues, and job creation, and improving the overall quality of life for the area's residents; and

WHEREAS, the Agreement will effectuate the Successor Agency's efforts and obligations to expeditiously wind down the affairs of the Dissolved RDA in accordance with Health and Safety Code Section 34177(h); and

WHEREAS, California Health and Safety Code Section 34178 allows a successor agency and its sponsoring city to enter into agreements with the approval of the oversight board; and

WHEREAS, in accordance with Health and Safety Code Section 34180(h), upon request by the Successor Agency, the Oversight Board may approve an agreement between the Successor Agency and the City; and

WHEREAS, the Agreement will become effective only upon approval and direction of the Oversight Board and certain other actions pursuant to the Dissolution Law, as fully provided in Section 1 of the Agreement; and

WHEREAS, approval of this Resolution and execution and implementation of the Agreement do not constitute a "project" within the meaning of and are exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines (collectively, "CEQA"), as it can be seen with certainty that there is no possibility that such approval, execution and implementation will have a significant effect on the environment (see particularly, 14 California Code of Regulations Section 15061(b)(3)); 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.

WHEREAS, on January 20, 2015, the Agency adopted Resolution No. 12, authorizing the Executive Officer to approve the Bond Proceeds Expenditure Agreement to transfer the remaining 2005 Refunding Tax Allocation Bonds proceeds from the Successor Agency to the City of Berkeley and the Bond Spending Plan.

NOW THEREFORE, BE IT RESOLVED by the Berkeley Redevelopment Successor Agency Oversight Board, that it hereby approves Exhibit A, the attached Bond Proceeds Expenditure Agreement between the Successor Agency to the Redevelopment Agency and the City of Berkeley for the 2005 Refunding Tax Allocation Bonds and the Bond Spending Plan and authorizes the Successor Agency to make such changes and revisions to the Agreement or Plan as deemed necessary based on the review and approval by the Department of Finance.

EXHIBIT A

BOND PROCEEDS EXPENDITURE AGREEMENT

This BOND PROCEEDS EXPENDITURE AGREEMENT ("Agreement") is entered into as of December 1, 2014, by and between the City of Berkeley, a municipal corporation (the "City"), and the Berkeley Successor Agency, the successor to the former Berkeley Redevelopment Agency ("Successor Agency").

RECITALS

WHEREAS, under AB 1484, the Successor Agency has the authority to designate the use of remaining unspent Bond Proceeds that are not already committed to an enforceable obligation listed on an approved Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, on January 17, 2012, pursuant to Resolution No. 65,574-N.S., the City of Berkeley elected to become the Successor Agency to the former Berkeley Redevelopment Agency upon dissolution on February 1, 2012; and

WHEREAS, the Dissolution Act created an oversight board ("Oversight Board") to oversee the wind down of the Berkeley Redevelopment Agency; and

WHEREAS, section 34191.4(c) of the Dissolution Act allows a successor agency that has received a finding of completion to use bond proceeds from bonds issued prior to 2011 for the purposes for which the bonds were sold, provides that such proceeds in excess of amounts needed to satisfy approved enforceable obligations shall be expended in a manner consistent with the original bond covenants, and further provides that such expenditures shall constitute "excess bond proceeds obligations" that shall be listed separately on the successor agency's Recognized Obligation Payment Schedule ("ROPS"); and

WHEREAS, the successor Agency has proceeds from its Berkeley Redevelopment Agency 2005 Tax Allocation Refunding Bonds ("Excess Bond Proceeds"); and

WHEREAS, the Successor Agency desires to transfer its Excess Bond Proceeds to the City to enable the City to use such Excess Bond Proceeds in a manner consistent with the original bond covenants and to undertake projects that were not previously funded and obligated by the Successor Agency. The City has adopted a spending plan for using such Excess Bond Proceeds ("Bond Spending Plan") to advance the City's community development goals. The City Council and Successor Agency Board have found that the use of Excess Bond Proceeds in

accordance with the Bond Spending Plan to fund projects that are of benefit to the Project Area including transportation improvements designed to facilitate ingress and egress from the Project Area as well as within the Project Area. The Oversight Board has approved the execution of this Agreement and the transfer of Excess Bond Proceeds to the City for the purposes described herein; and

WHEREAS, In order to facilitate the use of Excess Bond Proceeds consistent with all applicable bond covenants, the Successor Agency and the City have negotiated this Agreement requiring the transfer of current and future excess bond proceeds by the Successor Agency to the City, and the City's use of such proceeds consistent with all applicable bond covenants. The parties intend that this Agreement shall constitute an excess bond proceeds obligation within the meaning of Health and Safety Code Section 34191.4(c) (2) (A) to be paid from Excess Bond Proceeds. With Oversight Board approval, the Successor Agency will list this Agreement, and the requirement to transfer excess bond proceeds herein, on its ROPS 15-16A for July 1, 2015, through December 31, 2015, as an obligation to be funded with Excess Bond Proceeds and if not approved on ROPS 15-16A will continue to list on subsequent ROPS until approved by the California State Department of Finance; and

WHEREAS, pursuant to Health & Safety Code Section 34179(h), written notice about the approval of this Agreement by the Oversight Board is provided to the Department of Finance (DOF) and this Agreement becomes effective five (5) business days after notice has been provided to the DOF, pending a request for review by the DOF.

NOW, THEREFORE, in consideration of the promises and the mutual agreements herein contained, the parties hereto do hereby agree as follows. The foregoing recitals are hereby incorporated by reference and made part of this Expenditure Agreement.

ARTICLE I.

SUCCESSOR AGENCY OBLIGATIONS

Section 1.01 Current Excess Bond Proceeds. The Successor Agency shall transfer to the City, no later than July 1, 2015, Excess Bond Proceeds currently held by the Successor Agency in an amount not to exceed \$600,000.

Section 1.02 Future Excess Bond Proceeds. The Successor Agency shall transfer to the City all future Excess Bond Proceeds held or received by the Successor Agency. Such future Excess Bond Proceeds shall include, without limitation, (1) Bond Proceeds previously obligated to a project or other Enforceable Obligation that become unobligated for any reason, (2) Bond Proceeds that become available in the form of rents, sale proceeds, loan

repayments, or other revenues that are generated by properties or other assets acquired and/or improved with Bond Proceeds and that are not otherwise obligated to a project or other Enforceable Obligation, and (3) any other funds held by the Successor Agency that qualify as Excess Bond Proceeds under this Agreement.

The parties intend that payments of future Excess Bond Proceeds be made to the City as soon as possible after such Excess Bond Proceeds become available. The transfer of future Excess Bond Proceeds to the City shall be made pursuant to an approved ROPS within 30 days of the commencement of the relevant ROPS period. The Successor Agency shall be responsible for ensuring that payments of future Excess Bond Proceeds to the City, as such funds become available, are included on the next possible ROPS.

Section 1.03 Projects Funded by Excess Bond Proceeds. The Successor Agency assigns to the City all responsibilities in relation to the administration of any projects or programs funded by Excess Bond Proceeds. The Successor Agency assigns to the City all contracts entered into by the Successor Agency or the former Agency related to the expenditure of Excess Bond Proceeds and any activities to be funded by Excess Bond Proceeds, with the exception of those contracts relating to Enforceable Obligations, which shall be retained by the Successor Agency.

ARTICLE II.

CITY OBLIGATIONS

Section 2.01 Excess Bond Proceeds. The City shall accept, hold, and disburse Excess Bond Proceeds transferred to the City by the Successor Agency under this Agreement, including current Excess Bond Proceeds and future Excess Bond Proceeds. The City shall retain any Excess Bond Proceeds that it receives, without any obligation to return such funds to the Successor Agency, and shall use such funds for uses consistent with applicable bond covenants.

The City may spend Excess Bond Proceeds received or retained under this Agreement on any project, program, or activity authorized under the Bond Spending Plan. Notwithstanding anything to the contrary in this Agreement or the Bond Spending Plan, the City shall spend Excess Bond Proceeds consistent with the original bond covenants applicable to the particular Excess Bond Proceeds. The City shall be solely responsible for ensuring that Excess Bond Proceeds are maintained and spent in accordance with bond covenants and other applicable laws. The City may transfer funds between approved projects, programs and activities.

The City hereby assumes all contracts entered into by the Successor Agency or the former Agency related to the expenditure of Excess Bond Proceeds and any activities to be funded by Excess Bond Proceeds, with the exception of those contracts relating to Enforceable Obligations, which shall be retained by the Successor Agency. The City shall perform its obligations hereunder, and under such assumed contracts, in accordance with the applicable provisions of federal, state and local laws, including the obligation to comply with environmental laws such as CEQA, and shall timely complete the work required for each project commenced by the City pursuant to this Agreement and the Bond Spending Plan.

Section 2.02 Bond Spending Plan. The City shall be solely responsible for maintaining and implementing the Bond Spending Plan. The City may amend the Bond Spending Plan as the City deems necessary in its sole discretion. Any amendments to the adopted Bond Spending Plan will consider uses that advance the City's community development goals while maximizing fiscal and social benefits flowing to the taxing entities from successful development. Notwithstanding any contrary provision hereof, unless the City expressly agrees otherwise, the City shall not be obligated to provide funding for any program or project in an amount exceeding the Excess Bond Proceeds provided to the City pursuant to this Agreement.

ARTICLE III.

ENTIRE AGREEMENT; WAIVERS; AND AMENDMENTS

Section 3.01 This Agreement constitutes the entire understanding and agreement of the parties with respect to the transfer and use of Excess Bond Proceeds. 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 subject matter of this Agreement.

Section 3.02 This Agreement is intended solely for the benefit of the City and the Successor Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Successor Agency, there shall be no third party beneficiaries under this Agreement.

Section 3.03 All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the authorized representatives of the parties.

Section 4 SEVERABILITY

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, 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. In addition, the parties shall cooperate

in good faith in an effort to amend or modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant, or condition can be accomplished to the maximum extent legally permissible.

Section 5 DEFAULT

If either party fails to 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 or to seek specific performance. 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.

Section 6 EFFECTIVENESS OF AGREEMENT

This Agreement shall become effective only upon satisfaction of the following conditions:

- (a) Approval of this Agreement and direction by the Oversight Board for the Successor Agency to execute and implement this Agreement pursuant to Health and Safety Code Section 34180(h) (the "Oversight Board Action"); and
- (b) Notification to the California Department of Finance of the Oversight Board Action and effectiveness of the Oversight Board Action in accordance with the provisions of Health and Safety Code Section 34179(h).

Section 7 BINDING ON SUCCESSORS

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.

Section 8 FURTHER ASSURANCES

Each party agrees to execute, acknowledge and deliver all additional documents and instruments and to take such other actions as may be reasonably necessary to carry out the intent of this agreement.

IN WITNESS WHEREOF, the City of Berkeley and the Successor Agency have caused this Agreement to be signed by their respective officers.

**CITY OF BERKELEY, CALIFORNIA,
a California municipal corporation ("CITY")**

Approved:

Date:

City Manager

APPROVED AS TO FORM:

City Attorney

**BERKELEY SUCCESSOR AGENCY,
the successor to the former Berkeley Redevelopment Agency
("SUCCESSOR AGENCY")**

Approved:

Date:

Title

APPROVED AS TO FORM:

Successor Agency Attorney



*Berkeley
Redevelopment
Successor Agency*

STAFF REPORT
JANUARY 26, 2015

To: Berkeley Redevelopment Successor Agency Oversight Board
From: Eric Angstadt, Director, Planning and Development
Subject: Approve Transfer of Housing Assets from the Successor Agency to the City Acting as Successor Agency for Housing

RECOMMENDATION

Adopt a Resolution approving the transfer of D&E properties and the Delaware Street Historical Development properties from the Successor Agency to the City Acting as Successor Agency for Housing.

FISCAL IMPACTS OF RECOMMENDATION

There is no cash being transferred; only property assets. These are owner occupied properties being transferred to monitor resale restrictions and compliance of applicable laws and agreements.

CURRENT SITUATION AND ITS EFFECTS

The Finding of Completion (FOC) was issued to the Successor Agency to the former Redevelopment Agency of the City of Berkeley on July 31, 2014. Under AB1484, after receiving the Finding of Completion (FOC) from the Department of Finance (Finance), the Successor Agency is permitted to recommend these properties for transfer to the Housing Successor Agency. The Successor Agency did not include these properties on its Housing Asset Transfer (HAT) form that was approved by the Department of Finance on September 5, 2012. Therefore, staff is requesting that the Oversight Board approve transfer of these properties from the Successor Agency to the City, in its role as Successor Agency for Housing. The transfer is subject to approval of the Oversight Board and submittal to the Department of Finance for their review and approval.

On January 20, 2015, the Agency adopted Resolution No. 13 authorizing the Executive Officer to approve the transfer of the D&E properties and the Delaware Street Historical Development properties from the Successor Agency to the City Acting as Successor Agency for Housing.

Listed below are the D&E residential owner-occupied Deed restricted properties; and the Delaware Street Historical Development residential owner-occupied and commercial condominium recommended for transfer.

D&E Properties

1607 Fifth	057-2117-016	1645 Fourth/725 Virginia	057-2116-015	
1609 Fifth	057-2117-015		1646 Fifth	057-2116-021
1613 Fifth	057-2117-017		1650 Fifth	057-2116-022
1615 Fifth	057-2117-018		1828/30 Fifth	057-2099-019
1625 Fifth	057-2117-013		729/31 Virginia	057-2116-024
1629 Fifth	057-2117-012			

Delaware Street Historical Development

822 Delaware	Commercial	057-2098-032
814 Delaware	Residential	057-2098-037
816 Delaware	Residential	057-2098-035

BACKGROUND

On January 17, 2012 the City Council passed Resolution No. 65,574-N.S. authorizing the City to become the successor agency for the purpose of managing housing assets of the Redevelopment Agency. Pursuant to ABx1 26, California Health and Safety Code § 34175(b) all assets and properties of a former redevelopment agency were to be transferred by February 1, 2012 to the control of the agency's successor agency.

California Health and Safety Code § 34176(a) (2), required the entity assuming the housing functions of the former Redevelopment Agency to submit a Housing Asset Transfer Form (HAT) listing all housing asset transfers and explaining how the assets meet the definition of "housing asset" included in the Section. At the time that the Housing Asset Transfer form was required to be submitted, the Successor Agency determined that the properties were not housing assets as defined in the statute since the properties' original acquisition was not strictly limited to low and moderate income housing. The statute defining "housing assets" was passed by the Legislature in late June 2012 and the Housing Asset Transfer list was required to be submitted no later than August 30, 2012. The Successor Agency has reviewed the definition of Housing Assets and has now determined that the properties satisfy the definition of housing assets because of their ongoing use for low and moderate income housing.

The purchase loans for the D&E properties are deferred payment loans with a term of thirty (30) years. If the Borrower occupies the Residence for thirty (30) years, and is not in violation of any of the provisions of the Note or Resale Agreement, the principal and accrued interest shall automatically be forgiven in 2017. The property located at 729/31 Virginia Street was sold in 2009 via a secured loan from a bank. The Agency subsidized the provision of affordable housing in perpetuity by agreeing to sell to the Owner at a price well below market price. The outstanding purchase loans for the

Delaware Street Historical Development properties with a term of thirty (30) years with principal and interest are due and payable by 2018.

These properties were not originally acquired for low-and-moderate-income purposes, they were acquired in March, 1971 as part of the West Berkeley Industrial Park Redevelopment Project, financed under a Neighborhood Development Program by annual increment financing through U.S. Department of Housing and Urban Development (HUD) and local grants-in-aid by the City of Berkeley.

The Community Development Block Grant (CDBG) Close-Out Agreement dated September 12, 1978, stipulates that the proceeds from the sale of all properties purchased with Federal financial assistance as part of the Neighborhood Development Project, which includes the subject properties, must be treated as program income to the CDBG program under the provisions of 24 CFR 570.506. Therefore, sale proceeds must be returned to the City's CDBG Program and treated as program income to support CDBG-eligible activity. Therefore, any transfer of these properties would have a net zero effect on any balance available to the taxing entities.

Since none of the above properties were transferred through the HAT process, the assets currently belong to the Successor Agency. Under the Redevelopment Dissolution Statute, all housing assets are subject to transfer to the entity acting as housing successor, in this case the City. Once transferred to the City in accordance with the Dissolution Act, the property would no longer be subject to the requirements of the Dissolution Act.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Meet compliance by transferring the housing assets to the Berkeley Housing Successor Agency.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 981-7401

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF BERKELEY APPROVING TO TRANSFER THE D&E PROPERTIES AND THE DELAWARE STREET HISTORICAL DEVELOPMENT PROPERTIES FROM THE SUCCESSOR AGENCY TO THE CITY OF BERKELEY, ACTING AS SUCCESSOR AGENCY FOR HOUSING

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision resulted in the dissolution of that all California redevelopment agencies on February 1, 2012; and

WHEREAS, on January 17, 2012, the City Council adopted a Resolution indicating its intent to become the Successor Agency as well as its election to become the Successor Agency for Housing; and

WHEREAS, the Successor Agency failed to list the D&E properties and the Delaware Street Historical Development properties on the Housing Asset Transfer Form because the properties were not housing assets as defined in the statute; in particular the properties' original acquisition was not strictly limited to low and moderate income housing; and

WHEREAS, the properties are now assets of the Successor Agency; and

WHEREAS, the Successor Agency has reviewed the definition of Housing Assets and has now determined that the properties satisfy the definition of a housing assets because of their ongoing use for low and moderate income housing; and

WHEREAS, the Dissolution Act allows the Oversight Board to direct the Successor Agency to transfer housing assets in accordance with Health and Safety Code Section 34176; and

WHEREAS, on January 20, 2015, the Agency adopted Resolution No. 13, authorizing the Executive Officer to transfer title of the D&E properties and the Delaware Street Historical Development properties to the City of Berkeley acting as the Successor Agency for Housing; and

WHEREAS, public notice of the proposed action by the Oversight Board was provided as required by Health and Safety Code Section 34181(f).

NOW THEREFORE, BE IT RESOLVED by the Berkeley Redevelopment Successor Agency Oversight Board, that it hereby approves transfer of the D&E properties and the Delaware Street Historical Development properties from the Successor Agency to the City acting as the Successor Agency for Housing.

EXHIBIT A



PUBLIC NOTICE

Oversight Board Meeting – January 26, 2015

NOTICE IS HEREBY GIVEN of the proposed transfer of the D&E and Delaware Street Historical Development properties from the Successor Agency of the former Berkeley Redevelopment Agency to the City of Berkeley in its role as the Successor Agency for Housing. The Successor Agency approved this transfer on January 20, 2015.

The D&E properties were made available to first-time home buyers through a lottery held by the Agency in 1987. The purchase loans are deferred payment loans with a term of thirty (30) years. If the Borrower occupies the Residence for thirty (30) years, and is not in violation of any of the provisions of the Note or Resale Agreement, the principal and accrued interest shall automatically be forgiven in 2017.

1607 Fifth	057-2117-016		1645 Fourth/725 Virginia	057-2116-015
1609 Fifth	057-2117-015		1646 Fifth	057-2116-021
1613 Fifth	057-2117-017		1650 Fifth	057-2116-022
1615 Fifth	057-2117-018		1828/30 Fifth	057-2099-019
1625 Fifth	057-2117-013		729/31 Virginia	057-2116-024
1629 Fifth	057-2117-012			

The property located at 729/31 Virginia Street was sold in 2009 via a secured loan from a bank. The Agency subsidized the provision of affordable housing in perpetuity by agreeing to sell to the Owner at a price well below market price.

The Delaware Street Historical Development properties consist of residential and commercial condominiums. The outstanding purchase loans for the Delaware Street Historical Development properties with a term of thirty (30) years with principal and interest are due and payable by 2018.

822 Delaware	Commercial	057-2098-032
814 Delaware	Residential	057-2098-037
816 Delaware	Residential	057-2098-035

The Oversight Board meeting will be held at the Permit Service Center, 2120 Milvia Street, First Floor Conference Room, on January 26, 2015, at 4:00 p.m. For more information, contact Danita Hardaway at 981-7407.