

ALL ITEMS FOR CONSIDERATION BY THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION ARE AVAILABLE FOR PUBLIC VIEWING IN THE OFFICE OF THE OVERSIGHT BOARD SECRETARY AND THE CENTRAL LIBRARY

Agendas and other writings that will be distributed to the Board Members in connection with a matter subject to discussion or consideration at this meeting and that are not exempt from disclosure under the Public Records Act, Government Code Sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22, are available for inspection following the posting of this agenda in the Oversight Board Secretary's Office, at Commerce City Hall, 2535 Commerce Way, Commerce, California, and the Central Library, 5655 Jillson Street, Commerce, California, or at the time of the meeting at the location indicated below.

**AGENDA FOR THE REGULAR MEETING OF
THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO
THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION**

**COUNCIL CHAMBERS
CITY HALL, CITY OF COMMERCE
5655 JILLSON STREET, COMMERCE, CALIFORNIA**

WEDNESDAY, OCTOBER 3, 2012 – 5:00 P.M.

CALL TO ORDER

Chairperson Leon

PLEDGE OF ALLEGIANCE

Board Member Marquez

ROLL CALL

Secretary Olivieri

PUBLIC COMMENT

Citizens wishing to address the Oversight Board on any item on the agenda or on any matter not on the agenda may do so at this time. However, State law (Government Code Section 54950 et seq.) prohibits the Oversight Board from acting upon any item not contained on the agenda posted 72 hours before a regular meeting and 24 hours before a special meeting. Upon request, the Oversight Board may, in its discretion, allow citizen participation on a specific item on the agenda at the time the item is considered by the Oversight Board. Request to address Oversight Board cards are provided by the Secretary. If you wish to address the Oversight Board at this time, please complete a speaker's card and give it to the Secretary prior to commencement of the Oversight Board meeting.

REGULAR OVERSIGHT BOARD AGENDA

10/03/2012 – 5:00 p.m.

Page 2 of 4

Please use the microphone provided, clearly stating your name and address for the official record and courteously limiting your remarks to five (5) minutes so others may have the opportunity to speak as well.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

No person shall make any remarks which result in disrupting, disturbing or otherwise impeding the meeting.

WRITTEN COMMUNICATIONS – None.

PRESENTATIONS – None.

CONSENT CALENDAR

Items under the Consent Calendar are considered to be routine and may be enacted by one motion. Each item has backup information included with the agenda, and should any Board Member desire to consider any item separately he/she should so indicate to the Chairperson. If the item is desired to be discussed separately, it should be the first item under Scheduled Matters.

1. Approval of Minutes

The Board will consider for approval the minutes of the Regular Meeting of Wednesday, September 5, 2012, held at 5:00 p.m.

SCHEDULED MATTERS

2. Review of Impact of AB 1X 26 and AB 1484 on Loans Made by City of Commerce to Commerce Community Development Commission

The Board will consider for receipt and filing, and provide direction as deemed appropriate with respect to, the impact of AB 1X 26 and AB 1484 on loans made by the City of Commerce to the Commerce Community Development Commission.

This item was continued from September 5, 2012.

3. Resolution No. OB 2012-14 – A Resolution of the Oversight Board of the Successor Agency to the Commerce Community Development Commission: (1) Amending the Fee Schedule for the May 17, 2011, Agreement Between the Former Commerce Community Development Commission and Wayne Perry, Inc., for the Design and Installation of a Landfill Gas Collection and Treatment System for 7025 E. Slauson Avenue (the “Site”);

REGULAR OVERSIGHT BOARD AGENDA

10/03/2012 – 5:00 p.m.

Page 3 of 4

and (2) Approving an Increase in the Estimated Cost for Operations and Maintenance Required After Completion of Such Treatment

In 1985, the Commerce Community Development Commission (the "Commission") acquired ownership of the real property located at 7025 E. Slauson Avenue, in the City of Commerce (the "Site"). The Site had consistent methane gas probe readings exceeding regulatory limits. Therefore, the Local Enforcement Agency ("LEA"), County of Los Angeles Department of Public Health, required the Commission to take mitigation measures that would reduce the methane readings within acceptable regulatory limits.

On November 21, 1995, the Commission entered into a 55-year Ground Lease with Structural Materials for the Site. Pursuant to AB 1X 26, the Ground Lease and the environmental mitigation requirements for the Site constitute "enforceable obligations" that must be recognized and addressed by the Successor Agency.

On July 3, 2012, the Successor Agency approved the assignment of the Ground Lease from Structural Materials to Beacon Sales Acquisition, Inc., which purchased Structural Materials. The Oversight Board subsequently approved the assignment on July 5, 2012.

The Board will consider for approval and adoption a proposed Resolution approving the Successor Agency's action amending the fee schedule for the May 17, 2011, Agreement between the former Commerce Community Development and Wayne Perry, Inc. for the installation of four wells and a gas collection system needed to reduce the methane readings at the former Commission-owned property located at 7025 E. Slauson Avenue and increasing the estimated cost for monitoring, operations and maintenance required after completion of such treatment.

Further, the proposed Resolution acknowledges that the referenced increases in costs will be included in the next Recognized Obligation Payment Schedule submittal.

4. Public Hearing – Low and Moderate Income Housing Fund and Other Assets Due Diligence Review

Pursuant to California *Health & Safety Code* §34179.5(a), the Successor Agency to the Commerce Community Development Commission (the "Commission") has completed a Due Diligence Review of the Low and Moderate Income Housing Fund ("LMIHF") maintained by the now dissolved Commission and has now, as required by *Health & Safety Code* §34179.6(a), provided the results of such review to the Oversight Board of the Successor Agency. The Due Diligence Review was performed by

REGULAR OVERSIGHT BOARD AGENDA

10/03/2012 – 5:00 p.m.

Page 4 of 4

Mayer Hoffman McCann P.C. as part of the AB 1X 26 requirements for the end of redevelopment and pursuant to Health & Safety Code §34179.5(c) requiring each County Auditor-Controller to conduct or cause to be conducted, agreed-upon procedures of each former redevelopment agency.

The Board will conduct a public hearing to consider public comments on the Due Diligence Review of the LMIHF.

On October 11, 2012, the Board will meet to determine the amount of LMIHF cash and cash equivalents that are available for disbursement to taxing entities based on the Due Diligence Review.

5. Review of Future Agenda Items

The Board will review, and provide direction as deemed appropriate with respect to, future agenda items for consideration by the Board.

STAFF REPORTS AND INFORMATION ITEMS

CHAIR AND BOARD MEMBER REPORTS AND INFORMATION ITEMS

RECESS TO CLOSED SESSION – No items.

ADJOURNMENT

**LARGE PRINTS OF THIS AGENDA ARE AVAILABLE UPON REQUEST
FROM THE OVERSIGHT BOARD SECRETARY'S OFFICE,
MONDAY-FRIDAY, 8:00 A.M. - 6:00 P.M.**

AGENDA REPORT

OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION

DATE: October 3, 2012

TO: HONORABLE OVERSIGHT BOARD

FROM: SUCCESSOR AGENCY FINANCE DIRECTOR

SUBJECT: REVIEW OF THE IMPACT OF AB X1 26 AND AB 1484 ON LOANS MADE BY THE CITY OF COMMERCE TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION

RECOMMENDATION:

None.

MOTION:

Receive and file.

DISCUSSION:

1. The City of Commerce Had \$17.8 Million In Outstanding Loans To The Commerce Redevelopment Agency/Commerce Community Development Commission At The Time AB X1 26 Was Enacted.

On March 14, 1974, the Commerce City Council established the City of Commerce Redevelopment Agency (the "Agency"). On November 3, 1992, the City Council created the Commerce Community Development Commission (the "Commission"). The Commission is the successor-in-interest to the Agency and was, since its creation, authorized to and had been engaged in activities necessary or appropriate to carry out the California Community Redevelopment Law (*Health & Safety Code* Sections 33000, *et seq.*) (the "CRL") within the City of Commerce (the "City").

The City loaned the Agency/Commission millions of dollars that were needed for the Agency/Commission to pursue its' redevelopment project goals, to assist in funding administrative and other expenses necessary for the implementation of the redevelopment plans, and for the purchase of properties required to implement the City's redevelopment programs. The following loans were outstanding and owed to the City as of the passage of AB X1 26:

- Loan No. 1 for \$100,000. On June 16, 1986, the City approved a loan of \$100,000 from the City's General Fund to the Agency at a rate of 7.5% per annum for expenses in connection with carrying out budgeted projects for the Agency. The loan and various extension requests/approvals were documented by City and Agency/Commission resolutions and were reported on the Commission's annual Statement of Indebtedness. The principal amount of the loan has not been repaid.
- Loan No. 2 for \$6,500,000. On March 3, 1992, the City approved a loan of \$6,500,000 from the City's General Fund to the Agency at a rate of 7.5% per annum to assist the Agency in paying expenses in connection with carrying out projects in Redevelopment Project Area No. 1. The loan and various extension requests/approvals were documented by City and Agency/Commission resolutions and were reported on the Commission's annual Statement of Indebtedness. In March of 1997, the Commission made a \$500,000 principal payment to the City on this loan. The remaining principal amount of \$6,000,000 has not been repaid.
- Loan No. 3 for \$5,000,000. On November 2, 1999, the City approved a \$5,000,000 loan from the City's General Fund to the Commission at a rate of 7.5% per annum to assist the Commission in paying administrative and overhead expenses. The loan and various extension requests/approvals were documented by City and Agency/Commission resolutions and were reported on the Commission's annual Statement of Indebtedness. The principal amount of the loan has not been repaid to the City.
- Loan No. 4 for \$5,700,000. On April 16, 2002, the City approved a loan of \$5,700,000 from the City's General Fund to the Commission at a rate of 6.5% per annum. This loan was specifically made for the purpose of enabling the Commission to pay for property known as the Stahl Trust Property that was to be redeveloped in the future. The loan and various extension requests/approvals were documented by City and Agency/Commission resolutions and were reported on the Commission's annual Statement of Indebtedness. The principal amount of the loan has not been repaid to the City.
- Loan No. 5 for \$600,000. On June 16, 1986, the City approved a \$600,000 loan from the City's General Fund to the Commission at a rate of 7.5% per annum to assist the Commission in paying administrative and overhead expenses in Redevelopment Project Area No. 1. The loan and various extension requests/approvals were documented by City and Agency/Commission resolutions and were reported on the Commission's annual Statement of Indebtedness. The principal amount of the loan has not been repaid to the City.
- Loan No. 6 for \$400,000. On June 18, 2002, the City approved a loan of \$400,000 from the City's General Fund to the Commission at a rate of 6.5% per annum to assist the Commission in paying administrative and overhead expenses. The loan and various extension requests/approvals were documented by City and Agency/Commission resolutions and were reported on the Commission's annual

Statement of Indebtedness. The principal amount of the loan has not been repaid to the City.

As of the effective date of AB X1 26, the Commission owed the City the principal amount of \$17.8 Million for the above-referenced loans.

2. AB X1 26 Determined That The City Loans Were Not “Enforceable Obligations” And Would Therefore Not Be Re-paid.

On June 15, 2011, the California Legislature approved Assembly Bill X1 26 (“AB 26”), which added Parts 1.8 and 1.85 of Division 24 to the California *Health & Safety Code*. Part 1.85 of the *Health & Safety Code* required all redevelopment agencies to dissolve as of October 1, 2011, and provided for the establishment of a successor entity to administer the enforceable obligations of the redevelopment agency. Part 1.8 of the *Health & Safety Code* restricts activities of redevelopment agencies to meeting their enforceable obligations, preserving assets and meeting other goals in the interim period prior to dissolution. Pursuant to section 34177, each former redevelopment agency’s “successor agency” is required to, among other things provide payment from the transferred assets for the “enforceable obligations” of the former redevelopment agency. After such enforceable obligation payments, the successor agency is required to remit the balance of any unencumbered funds of the former redevelopment agency to the local county auditor-controller. [*Health & Safety Code* §§ 34170- 34191]

An “enforceable obligation” is defined in *Health & Safety Code* § 34171. Section 34171(d) (2) provides that, once a redevelopment agency is dissolved, that agency's “enforceable obligations” do not include “any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency.” There are only two exceptions to this exclusion: (1) written agreements entered into at the time of issuance of “indebtedness obligations”, if those agreements were entered on or before December 31, 2010, and solely for the purpose of securing or repaying those defined indebtedness obligations; and (2) loan agreements between a redevelopment agency and its sponsoring community that were entered into within two years after the agency was established.” All other “agreements, contracts or arrangements” between cities and their redevelopment agencies are voided and unenforceable.

The \$17.8 Million in City loans that are referenced above were not made within two years of the creation of the Agency or the Commission. Under the express language of *Health & Safety Code* Section 34171, they are not considered “enforceable obligations” that were required or allowed to be re-paid to the City.

On September 26, 2011, the City and several other cities filed a complaint in the case of *City of Cerritos, et. al. v. State of California, et. al.*, Case No. 34-2011-80000952. Among other things, the *Cerritos* lawsuit challenges the validity of *Health & Safety Code* § 34171 on the grounds that it violates the Contract Clauses of the state and federal constitutions by voiding city/redevelopment agency loans. This issue has not been addressed yet in the

Cerritos case. Nevertheless, new legislation has changed and added provisions to the *Health & Safety Code* that impact the status of the City loans.

3. Assembly Bill 1484 Allows For Re-payment Of The City Loans After The Department of Finance Issues A Finding of Completion

On June 27, 2012, Governor Brown signed Assembly Bill 1484 (“AB 1484”) into legislation. AB 1484 added Section 34191.4 to the *Health & Safety Code*, which allows for a different treatment of the City loans if the Department of Finance (the “DOF”) has issued a finding of completion to the successor agency. Subsection (b) (1) of Section 34191.4 provides, in part, that:

Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city...that created the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

Section 34191.4 imposes the following repayment requirements and limitations:

- (1) The accumulated interest on the remaining principal of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund;
- (2) The loan shall be repaid to the city in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund;
- (3) The loan repayments shall not be made prior to FY 2013–14;
- (4) The monies received by the City for such repayments must first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund and shall be distributed to the Low and Moderate Income Housing Asset Fund established by *Health & Safety Code* Section 34176 (d); and
- (5) Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid.

Pursuant to *Health & Safety Code* Section 34179.6 and 34183.5, the DOF will issue a finding of completion to a successor agency that pays the following amounts:

- (1) The amount determined in the audit of the Low and Moderate Income Housing Fund;
- (2) The amount determined in the audit of all other funds; and
- (3) The amount (if any) owing to taxing entities from the December 2011 property tax payment.

Health and Safety Code §§ 34179.6 and 34183.5

CONCLUSION:

Based on AB 1484, the City will receive a portion of \$17.8 Million in loans that it had made to the Commerce Redevelopment Agency/Commerce Community Development Commission.¹ The Successor Agency will take steps necessary to obtain the finding of completion from the DOF. At that time, staff will advise this Board and take the steps necessary to address the repayment of the City loans pursuant to the restrictions and requirements imposed by the law.

NOTE: This item was continued from September 5, 2012.

Respectfully submitted,


Vilko Domic
Successor Agency Finance Director

Approved as to form,


Eduardo Olivo
Successor Agency Legal Counsel

STAFF REPORT (IMPACT OF AB 26 AND AB 1484 ON CITY LOANS) – 10-03-2012.DOC

¹ Staff will be conducting a thorough audit in order to assure that all other loans that had been made by the City to the Agency or Commission were re-paid. Any additional amounts will be added to the outstanding loans totals.

AGENDA REPORT

OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION

Meeting Date: October 3, 2012

TO: HONORABLE OVERSIGHT BOARD

FROM: SUCCESSOR AGENCY FINANCE DIRECTOR

SUBJECT: RESOLUTION NO. OB 2012-14 – A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION: (1) AMENDING THE FEE SCHEDULE FOR THE MAY 17, 2011, AGREEMENT BETWEEN THE FORMER COMMERCE COMMUNITY DEVELOPMENT COMMISSION AND WAYNE PERRY, INC., FOR THE DESIGN AND INSTALLATION OF A LANDFILL GAS COLLECTION AND TREATMENT SYSTEM FOR 7025 E. SLAUSON AVENUE (THE “SITE”); AND (2) APPROVING AN INCREASE IN THE ESTIMATED COST FOR OPERATIONS AND MAINTENANCE REQUIRED AFTER COMPLETION OF SUCH TREATMENT

RECOMMENDATION:

Approve and adopt the Resolution.

MOTION:

Move to approve the recommendation.

BACKGROUND

In 1985, the Commerce Community Development Commission (the “Commission”) acquired ownership of real property located at 7025 E. Slauson Avenue, in the City of Commerce (the “Site”). The Site had consistent methane gas probe readings exceeding regulatory limits. Therefore, the Local Enforcement Agency (“LEA”), County of Los Angeles Department of Public Health required the Commission to take mitigation measures that would reduce the methane readings within acceptable regulatory limits.

On May 17, 2011, the Commission entered into an agreement with Wayne Perry, Inc. (the “Agreement”) for the installation of four wells and a gas collection system needed to reduce the methane readings at the Site at a cost of \$147,366. Wayne Perry also proposed to conduct required monitoring, operations and maintenance, for a thirty year period, at an estimated cost of \$150,000.

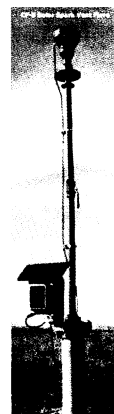
On November 21, 1995, the Commission entered into a 55-year Ground Lease with Structural Materials for the Site. Pursuant to AB 1X 26, the Ground Lease and the environmental mitigation requirements for the Site constitute “enforceable obligations” that must be recognized and addressed by the Successor Agency.

On July 3, 2012, the Successor Agency approved the assignment of the Ground Lease from Structural Materials to Beacon Sales Acquisition, Inc., which purchased Structural Materials.

ANALYSIS:

The Agreement involves two phases:

Phase I consists of obtaining a South Coast Air Quality Management District (AQMD) permit to actively extract and flare the current temporary bubble of landfill gas from four new wells using a Solar Spark Vent Flare (pictured), consisting of a small solar powered blower and igniter.



Phase II involves removing and replacing the Solar Spark Vent Flare once it begins to operate infrequently or the flow of gas ceases to support flaring due to low methane concentration. If necessary, two 55-gallon granular activated carbon canisters will be installed to treat the exhaust prior to discharge to the atmosphere.

During excavation for the well installation at the Site, Wayne Perry discovered that the lead content in some of the soils exceeded regulatory limits and must be disposed of as a hazardous waste. This resulted in a disposal rate of \$142/ton instead of \$36/ton and increased the cost for disposal by \$12,451.57.

The South Coast Air Quality Management District (“AQMD”) permit No. 525796 was granted on April 11, 2012, but did not allow for the use of solar flare as anticipated by Wayne Perry. Instead, the permit requires installation of an extraction system utilizing a vacuum blower and carbon treatment. This change has resulted in an electrical redesign, electrical connection and service, and a change in equipment for an additional unanticipated increased cost of \$5,680.00.

Pursuant to the Agreement, Wayne Perry was to provide quarterly monitoring, operations and maintenance of the installed mitigation and collection equipment at the Site for a period of thirty years, at an estimated cost of \$150,000. The AQMD permit required monitoring to occur on a monthly, rather than a quarterly basis. This resulted in an increase from \$3,000 per year to \$7,585 for year one and \$6,600 for year 2 and beyond for an increase service by \$48,985. The total revised figure is \$198,985.

In summary, the contract changes are as follows:

Reason for Increase	Increased amount
AQMD permit requirement – electrical	\$ 5,680.00
Hazardous waste soil disposal	\$ 12,451.57
Total Increase to Contract	\$ 18,131.57
AQMD permit requirement – O&M	\$198,985.00 (revised total cost over 30 years)

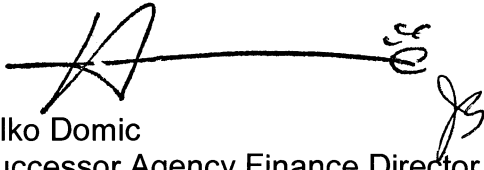
On October 2, 2012, the Successor Agency approved an amendment to the Agreement fee schedule to include the unexpected increased costs to Wayne Perry for the construction and the monitoring, maintenance and operations tasks at the Site. Pursuant to AB 1X 26, the Successor Agency has also recommended and requested that this matter be approved by the Oversight Board.

The Successor Agency had included the original costs for the construction and the monitoring, operations and maintenance on the Recognized Obligation Payment Schedule II (“ROPS II”), which was approved by the Oversight Board to the Successor Agency and the Department of Finance. The costs will need to be corrected on the next ROPS submittal.

FISCAL IMPACT:

The total increase to the design/build contract is \$18,131.57; the new total is \$165,497.57. The increase in the expected cost for 30 years of OHM is \$48,985; the new total is \$198,985. The Commission had approved the use of Commission funds from account number 82-9200-54043, Redevelopment Project Area 1- Consultant and 82-9200-55020, Redevelopment Project Area 1- Building/ Maintenance. These items were approved on ROPS for both the construction and monitoring phases. The increased totals will have to be reflected in the next ROPS submittal.

Respectfully submitted,



Vilko Domic
Successor Agency Finance Director

Approved as to form:



Eduardo Olivo
Successor Agency Legal Counsel

RESOLUTION NO. OB 2012-14

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION: (1) AMENDING THE FEE SCHEDULE FOR THE MAY 17, 2011, AGREEMENT BETWEEN THE FORMER COMMERCE COMMUNITY DEVELOPMENT COMMISSION AND WAYNE PERRY, INC., FOR THE DESIGN AND INSTALLATION OF A LANDFILL GAS COLLECTION AND TREATMENT SYSTEM FOR 7025 E. SLAUSON AVENUE (THE "SITE"); AND (2) APPROVING AN INCREASE IN THE ESTIMATED COST FOR OPERATIONS AND MAINTENANCE REQUIRED AFTER COMPLETION OF SUCH TREATMENT

WHEREAS, in 1985, the Commerce Community Development Commission (the "Commission") acquired ownership of real property located at 7025 E. Slauson Avenue, in the City of Commerce (the "Site"); and

WHEREAS, the Site had consistent methane gas probe readings exceeding regulatory limits. The Local Enforcement Agency ("LEA"), County of Los Angeles Department of Public Health, required the Commission to take mitigation measures that would reduce the methane readings within acceptable regulatory limits; and

WHEREAS, on November 21, 1995, the Commission entered into a 55-year Ground Lease with Structural Materials for the Site; and

WHEREAS, on May 17, 2011, the Commission entered into an agreement with Wayne Perry, Inc. (the "Agreement") for the installation of four wells and a gas collection system needed to reduce the methane readings at the Site, at a cost of \$147,366; and

WHEREAS, pursuant to AB 1X 26, the Ground Lease and the environmental mitigation requirements for the Site constitute "enforceable obligations" that must be recognized and addressed by the Successor Agency; and

WHEREAS, on July 3, 2012, the Successor Agency approved the assignment of the Ground Lease from Structural Materials to Beacon Sales Acquisition, Inc., which purchased Structural Materials; and

WHEREAS, during excavation for the well installation at the Site, Wayne Perry discovered that the lead content in some of the soils exceeded regulatory limits and must be disposed of as a hazardous waste, thus resulting in an unanticipated increase in the cost for disposal by \$12,451.57; and

WHEREAS, the South Coast Air Quality Management District ("AQMD") permit did not allow for the use of solar flare as anticipated by Wayne Perry, but requires installation of an extraction system utilizing a vacuum blower and carbon treatment. This requirement has resulted in an electrical redesign, electrical connection and

service, and a change in equipment for an additional unanticipated increased cost of \$5,680.00; and

WHEREAS, pursuant to the Agreement, Wayne Perry was to provide quarterly monitoring, operations and maintenance of the installed mitigation and collection equipment at the Site for a period of thirty years, at an estimated cost of \$150,000; and

WHEREAS, the AQMD permit required monitoring to occur on a monthly, rather than a quarterly basis, and has thus has also increased the estimated cost for that service by \$48,985; and

WHEREAS, the Successor Agency had included the original construction cost and the estimated cost for monitoring, operations and maintenance at the Site on the Recognized Obligation Payment Schedule II ("ROPS II"), which was approved by the Oversight Board to the Successor Agency and the Department of Finance; and

WHEREAS, on October 2, 2012, the Successor Agency approved an amendment to the Agreement fee schedule to include the unexpected increased costs to the contractor for the construction and the monitoring, maintenance and operations tasks; and

WHEREAS, pursuant to AB 1X 26, the Successor Agency has recommended and requested that this matter be approved by the Oversight Board, and

WHEREAS, the Oversight Board has reviewed and agrees with the Successor Agency's recommendation.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1 The Oversight Board hereby approves the Successor Agency's action amending the fee schedule attached as Exhibit "A" to the May 17, 2011, Agreement with Wayne Perry, Inc., to include an additional cost of: (1) \$12,451.57 for proper removal and disposal of soil that exceeds the regulatory limits and is therefore classified as a "hazardous waste"; and (2) \$5,680 for the required installation of an extraction system, utilizing a vacuum blower and carbon treatment, which will require electrical redesign, electrical connection and service, and a change in equipment.

Section 2. The Oversight Board hereby approves the Successor Agency's action approving the increased, estimated cost of \$48,985 for monitoring, operations and maintenance under the Agreement.

Section 3. The Oversight Board acknowledges that the above referenced increases in costs will be included in the next Recognized Obligation Payment Schedule submittal.

Section 4. The Oversight Board Secretary shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 3rd day of October, 2012.

Lilia R. Leon
Oversight Board Chairperson

ATTEST:

Linda Kay Olivieri
Oversight Board Secretary

