

RECOMMENDATION

Staff recommends that the Oversight Board:

- Adopt the attached resolution approving the conveyance of a 1,532 square foot easement of real property located at 12625 and 12721 Harbor Boulevard to Southern California Edison relating to the development of the Water Park Hotel; subject to approval by the Oversight Board and the Department of Finance;
- Authorize the Director to transmit the request for the easement to the State of California Department of Finance; and
- Authorize the Director to execute the Grant of Easement Deed on behalf of the Successor Agency upon approval by the Department of Finance.



WILLIAM E. MURRAY, P.E.
Public Works Director/City Engineer

By: Carlos Marquez
Senior Real Property Agent

Attachment 1: Resolution

Approved for Agenda Listing



Matthew Fertal
Director

OVERSIGHT BOARD

RESOLUTION NO. _____

A RESOLUTION OF THE OVERSIGHT BOARD OF THE CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING AND RATIFYING THE APPROVAL BY THE SUCCESSOR AGENCY OF A CONVEYANCE OF AN EASEMENT OVER REAL PROPERTY LOCATED AT 12721 HARBOR BLVD. AND 12625 HARBOR BLVD. AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of Garden Grove, Acting as Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") is acting as Successor Agency to the Garden Grove Agency for Community Development ("Former Agency") pursuant to ABx1 26, which added Parts 1.8 and 1.85 to Division 24 of the Health & Safety Code ("Dissolution Act"); and

WHEREAS, the Former Agency entered into that certain First Amended and Restated Disposition and Development Agreement ("DDA") with Garden Grove MXD, LLC ("Developer") dated April 13, 2010, amending and restating in its entirety that certain Disposition and Development Agreement dated May 12, 2009; and

WHEREAS, the Former Agency acquired the real properties located at 12581 Harbor Blvd., 12591 Harbor Blvd., 12625 Harbor Blvd., 12721 Harbor Blvd., 12601 Leda Lane, and 12602 Leda Lane (the "Site") in fee simple interest in accordance with Section 301.2(a) of the DDA for the disposition and development of the Site into a water park resort hotel resort (the "Project"); and

WHEREAS, Health & Safety Code Section 34173(b), added by the Dissolution Act, provides that, "[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to [the Dissolution Act], *all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.*" (emphasis added); and

WHEREAS, Health & Safety Code Sections 34167(d)(5) and 34171(d)(1)(E), added by ABx1 26, define "enforceable obligation" to include "[a]ny legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy"; and

WHEREAS, Health & Safety Code Section 34177(c), added by ABx1 26, requires the Successor Agency to "[p]erform obligations required pursuant to any enforceable obligation"; and

WHEREAS, the DDA was duly approved and fully executed prior to the effective date of the Dissolution Act; and

WHEREAS, the Successor Agency, is responsible for administering the enforceable obligations of the Former Agency; and

WHEREAS, the DDA has been included as an enforceable obligation under a recognized obligation payment schedule as filed by the Successor Agency and approved by the oversight board for the Successor Agency ("Oversight Board"); and

WHEREAS, on November 20, 2012, the Successor Agency submitted a petition to the State of California Department of Finance (the "DOF") requesting written confirmation that the DDA as approved in the Recognized Obligation Payment Schedule for the period of January through June 2013 ("ROPS III"), is final and conclusive, based on the criteria set forth in Health and Safety Code Section 34177.5(i); and

WHEREAS, on February 6, 2013, the DOF issued a final and conclusive finding that the DDA is an enforceable obligation; and

WHEREAS, the DDA is a legally binding and enforceable agreement that does not violate the debt limit or public policy; and

WHEREAS, pursuant to Health & Safety Code Section 34179(i), the Oversight Board has a fiduciary responsibility to holders of enforceable obligations, such as the Developer; and

WHEREAS, pursuant to Section 301.2(c) of the DDA, the Successor Agency shall cause adequate utilities and utility capacity, roadway and traffic improvements required by the City of Garden Grove to accommodate the Project; and

WHEREAS, On March 18, 2013, Southern California Edison formally requested a utility easement more particularly described in Exhibit "A," and depicted in Exhibit "B," attached hereto and made a part hereof, be granted from the Successor Agency for the installation of a transformer box and electrical conduit that will provide power to the Project.

WHEREAS, the implementation of the DDA is in the best interests of the Successor Agency and the Oversight Board by promoting compliance with the terms of an enforceable obligation and by facilitating the consummation of the project described in the DDA.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT:

Section 1. The foregoing recitals are true and correct and constitute a substantive part of this Resolution.

Section 2. The Oversight Board hereby re-affirms that the DDA is an "enforceable obligation" within the meaning of Health & Safety Code Sections 34167(d)(5) and 34171(d)(1)(E).

Section 3. The Oversight Board hereby approves and affirms the conveyance of the utility easement from the Successor Agency to Southern California Edison in furtherance of Section 301.2(c) of the DDA.

Section 4. This Resolution shall be effective immediately upon adoption.

Section 5. The Secretary on behalf of the Oversight Board shall certify to the adoption of this Resolution.

The foregoing Resolution was adopted by the Oversight Board this 26th day of June 2013.

ATTEST:

WILLIAM J. DALTON
CHAIR

KATHLEEN BAILOR
SECRETARY

Oversight Board to The City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development

Resolution No. _____

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STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, TERESA POMEROY, Deputy Secretary of the Oversight Board to The City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development, do hereby certify that the foregoing Resolution was adopted by the Oversight Board, at a Regular Meeting held on the 26th day of June 2013, by the following vote:

AYES: MEMBERS: (4) GUERRERO, HARRIS, JONES, DALTON
NOES: MEMBERS: (0) NONE
ABSENT: MEMBERS: (2) DUNN, MEFFORD
ABSTAIN: MEMBERS: (1) DELP

TERESA POMEROY
DEPUTY SECRETARY