

## RESOLUTION NO. 22

### A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE PORT HUENEME REDEVELOPMENT AGENCY FINDING THAT THE PROMISSORY NOTE BETWEEN THE CITY OF PORT HUENEME'S SURPLUS PROPERTY AUTHORITY AND THE FORMER PORT HUENEME REDEVELOPMENT AGENCY WAS FOR LEGITIMATE REDEVELOPMENT PURPOSES

The Oversight Board for the Successor Agency to the Port Hueneme Redevelopment Agency ("Oversight Board") does resolve as follows:

SECTION 1: The Oversight Board finds and declares that:

- A. The former Port Hueneme Redevelopment Agency (former RDA) was a duly constituted redevelopment agency pursuant to provisions of the Community Redevelopment Law set forth in California Health and Safety (H&S) Code sections 33000 *et seq.*;
- B. In 1998, the Surplus Property Authority of the City of Port Hueneme (Authority) loaned the former Port Hueneme Redevelopment Agency (former RDA) \$3,000,000 for capital projects; the loan was memorialized in a promissory note dated January 7, 1998, commonly referred to as the "NCEL Promissory Note";
- C. The note specified any unpaid balance was to be paid at a rate of 8%, and set a payment schedule of annual payments of \$280,000.00 to be paid for 30 years, ending December 31, 2028. Payments were to be made only from tax increments derived from the Naval Civil Engineering Laboratory (NCEL) Redevelopment Project;
- D. Pursuant to AB 1x 26 (which became effective in June 2011), and the California Supreme Court's decision in *California Redevelopment Association et al. v. Ana Matosantos, et al.* (2011) 53 Cal.4th 231, the former RDA was dissolved as of February 1, 2012, a successor agency as was constituted as the successor entity to the former RDA (the "Successor Agency"), and the Oversight Board was established;
- E. On June 27, 2012, AB 1484 became effective, significantly changing and clarifying certain provisions of AB 1x 26;
- F. Under AB 1x 26 and AB 1484 (collectively, the "Dissolution Law"), the winding-down process of the former RDA includes making payments of the former RDA's "enforceable obligations"; the enforceable obligations are listed on each successor agency's Recognized Obligations Payment Schedule or "ROPS";

- G. The Successor Agency determined that the NCEL Promissory Note constituted an enforceable obligation as defined by H&S Code sections 34171(d)(1)(B) (“loans of money borrowed by the redevelopment agency”) and 34171(d)(1)(E) (“any legally binding and enforceable agreement or contract”); accordingly, the Successor Agency included the NCEL Promissory Note on every ROPS it has submitted to the Oversight Board and Department of Finance for review;
- H. The Department of Finance approved the NCEL Promissory Note as an enforceable obligation on ROPS I, II, III, 13-14A, 13-14B, and 14-15A;
- I. In December 2014, the Department of Finance notified the Successor Agency that it was denying the NCEL Promissory Note based on a provision of the Dissolution Law (H&S Code § 34171(d)); nevertheless, the Department of Finance suggested that the NCEL Promissory Note will constitute an enforceable obligation on future ROPS if (1) the Successor Agency has received a Finding of Completion and (2) the Oversight Board “makes a finding that the loan was for legitimate redevelopment purposes” (H&S Code § 34191.4(b)(1));
- J. The Successor Agency received a Finding of Completion on May 24, 2013;
- K. The Successor Agency disagrees with the position taken by the Department of Finance and maintains that the NCEL Promissory Note is an enforceable obligation; therefore, while the Successor Agency has presented information necessary for the Oversight Board to make a finding that the loan was for legitimate redevelopment purposes, the Successor Agency expressly reserves its right to challenge the Department of Finance’s determination disapproving the NCEL Promissory Note on ROPS 14-15B.

SECTION 2: Finding. Based upon the information presented to the Oversight Board regarding the purpose of the NCEL Promissory Note, the Oversight Board finds that the NCEL Promissory Note between the former RDA and the Authority was for legitimate redevelopment purposes.

SECTION 3: Authorization. The City Manager, or designee, acting on behalf of the Successor Agency are authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution, including providing a copy to the Department of Finance, County Controller and (if applicable) State Controller.

SECTION 4: Environmental Determination. This Resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 2100, *et seq.*, “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to implement government funding mechanisms; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an

organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Resolution does not constitute a "project" that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 5: Reliance on Record. Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Successor Agency and applicable law. The findings and determinations constitute the independent findings and determinations of the Oversight Board in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 6: Summaries of Information. All summaries of information in the findings, which precede this Section, are based on the substantial evidence in the record including, without limitation, verbal and documentary evidence submitted to the Oversight Board. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 7: The City Clerk is directed to certify the adoption of this Resolution; record this Resolution in the book of the Oversight Board's original resolutions; and make a minute of the adoption of the resolution in the Oversight Board's records and the minutes of this meeting.

SECTION 8: This Resolution will take effect immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED** this 5<sup>th</sup> day of March, 2015.

**OVERSIGHT BOARD**



A handwritten signature in black ink, appearing to read "Jonathan Sharkey", is written over a horizontal line. The signature is stylized and cursive.

**JONATHAN SHARKEY  
CHAIR**

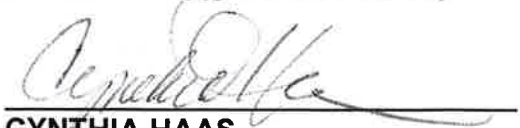
**ATTEST:**



A handwritten signature in blue ink, appearing to read "Michelle Ascencion", is written over a horizontal line.

**MICHELLE ASCENCION  
CITY CLERK  
ON BEHALF OF THE SUCCESSOR AGENCY**

**APPROVED AS TO CONTENT:**



A handwritten signature in black ink, appearing to read "Cynthia Haas", is written over a horizontal line.

**CYNTHIA HAAS  
CITY MANAGER  
ON BEHALF OF THE SUCCESSOR AGENCY**



# City of Port Hueneme

## CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF VENTURA ) SS:  
CITY OF PORT HUENEME )

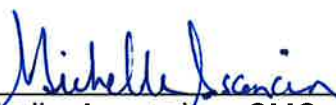
I, Michelle Ascencion, duly appointed and qualified City Clerk of the City of Port Hueneme, do hereby certify that the foregoing **Resolution No. 22** is a true and correct copy passed, approved, and adopted by the Oversight Board of the Successor Agency to the Port Hueneme Redevelopment Agency at its Special Meeting of March 5, 2015 by the following vote:

AYES: Members Norman Plott, Christine Walker; Vice Chair Greg Brown; Chair Jonathan Sharkey.

NOES: None.

ABSTAINING: None.

ABSENT: Members Michael Bush, Paul Derse, Steven Kinney.

  
\_\_\_\_\_  
Michelle Ascencion, CMC, City Clerk of  
the City of Port Hueneme and ex-officio  
Clerk of the Council, on behalf of the  
Successor Agency.

Dated: March 6, 2015