

A G E N D A

SPECIAL MEETING OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE CITY OF SUISUN CITY REDEVELOPMENT AGENCY FRIDAY, NOVEMBER 21, 2014

IMMEDIATELY FOLLOWING THE REGULAR MEETING OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE CITY OF SUISUN CITY REDEVELOPMENT AGENCY SCHEDULED FOR 4:00 P.M.

SUISUN CITY COUNCIL CHAMBERS -- 701 CIVIC CENTER BOULEVARD -- SUISUN CITY, CALIFORNIA

TELECONFERENCE NOTICE

Pursuant to Government Code Section 54953, Subdivision (b), the following Oversight Board meeting will include teleconference participation by Board member Rosemary Thurston from: 437 Southport Way, Vallejo 94591. This Notice and Agenda will be posted at the teleconference locations.

Next Board Res. No. OB2014 – __

ROLL CALL

Board Members

PUBLIC COMMENT

(Requests by citizens to discuss any matter under our jurisdiction other than an item posted on this agenda per California Government Code §54954.3 allowing 3 minutes to each speaker).

CONSENT CALENDAR

Consent calendar items requiring little or no discussion may be acted upon with one motion.

GENERAL BUSINESS

- 1) Adoption of Oversight Board Resolution No. OB2014-__: A Resolution of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Suisun City Authorizing the Executive Director to Take All Actions Necessary To Exercise the Successor Agency's Right To Require Payment Of Agency's Equity Participation Interest in the One Harbor Center Office Building. – (Garben)

REPORTS: *(Informational items only.)*

- 3) Chair/Boardmembers
- 4) Staff

ADJOURNMENT

A complete packet of information containing Staff Reports and exhibits related to each item is available for public review at least 72 hours prior to a Board Meeting or, in the event that it is delivered to the Boardmembers less than 72 hours prior to a Board Meeting, as soon as it is so delivered. The packet is available for review in the Suisun City Manager's Office during normal business hours, and online at www.suisun.com/Oversight-Board.html.

AGENDA TRANSMITTAL

MEETING DATE: November 18, 2014

OVERSIGHT BOARD AGENDA ITEM: Adoption of Oversight Board Resolution No. OB2014-__: A Resolution of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Suisun City Authorizing the Executive Director to Take All Actions Necessary To Exercise the Successor Agency's Right To Require Payment Of Agency's Equity Participation Interest in the One Harbor Center Office Building.

FISCAL IMPACT: The Equity Participation in the ownership of the One Harbor Center office building entitles the Successor Agency to receive the greater of Five Hundred Thousand Dollars (\$500,000) or ten percent (10%) of the "Total Cumulative Gross Proceeds. These funds are to be remitted to the County for distribution consistent with redevelopment dissolution law upon receipt by the Successor Agency.

IMPACT ON PASS THROUGH TO OTHER TAXING ENTITIES: This item has no impact on the existing pass-through payments to the other affected taxing entities.

BACKGROUND: The former Redevelopment Agency of the City of Suisun City and One Harbor Center, a California Limited Partnership ("Developer") entered into a Disposition and Development Agreement dated September 19, 2000 (the "DDA") for the purposes of Developer's acquiring and developing the One Harbor Center Office building. The Wiseman Company acts as the agent to the One Harbor Center Partnership. Pursuant to Article IV of the DDA the Agency received an Equity Participation in exchange for the sale of the site and the Agency's contributions to site improvements and payment of development fees. Article IV of the DDA provides the Agency may exercise a "Call Option" to demand payment of the Equity Participation within thirty (30) days after the 13th, 15th, 17th, and 19th anniversary date of the issuance of the Certificate of Occupancy (which was issued on December 14, 2001). Therefore, the Agency may exercise the call option for payment of the Equity Participation on or before January 13, 2015 ("First Call Option"). If the Call Option is not exercised on any of the aforementioned anniversary dates, the Equity Participation shall become due and payable as of the 20th anniversary date of the issuance of the Certificate of Occupancy.

The redevelopment dissolution laws have significantly altered how business can be conducted with respect to assets of the former redevelopment agency. Pursuant to California Health and Safety Code Section 34181, the Successor Agency is obligated to dispose of all assets and properties of the former redevelopment agency *expeditiously and in a manner aimed at maximizing value*.

The Successor Agency Board provided direction to staff at its meeting held on November 18, 2014 to proceed with exercising the Call Option to require payment its Equity Participation interest pursuant to the terms of the DDA.

PREPARED BY:

Jason Garben, Economic Development Director

REVIEWED/APPROVED BY:

Suzanne Bragdon, City Manager

STAFF REPORT:Overview – Article IV Equity Participation

As previously mentioned, the Equity Participation in the ownership of the One Harbor Center office building entitles the Agency to receive the greater of Five Hundred Thousand Dollars (\$500,000) or ten percent (10%) of the “Total Cumulative Gross Proceeds.” The Total Cumulative Gross Proceeds is essentially defined as 10% of the annual cash revenues after all expenses generated by the operation of the building, plus any cash reserves and equity in the building based on a sale or appraised value reduced by sale costs of 7%, repayments of loans secured by the development, and tenant’s security deposits.

In the absence of a sale, the Equity Participation becomes payable through the exercise of a Call Option or expiration of the 20-year term. The “appraised value” as mentioned above, shall be determined by the following process:

- a) One Harbor Center delivers to Agency its written “statement” of the fair market value of the development within 90 days after the exercise of the Call Option or expiration of the 20 year period.
- b) Agency has 30 days to respond to One Harbor Center’s written statement of fair market value by accepting or providing its own “response” with an opinion of a fair market value.
- c) The parties would then have ten days thereafter to meet and confer in good faith effort to reach an agreement. If no agreement is made, the matter is submitted to an arbitration process.
- d) The arbitrator would be an MAI appraiser with at least 5-years experience who is familiar with the Fairfield-Suisun Area agreed upon by both parties. If the parties are unable to agree upon an appraiser within 30 days, either party has the right to apply for the appointment of a duly qualified person to act as arbitrator to the Presiding Judge of the Solano County Superior Court. In making a decision, the arbitrator is to determine whether the Developer’s “statement” or the Agency’s “response” most closely conforms to the arbitrator’s opinion of the fair market value.
- e) The arbitration process is final and binding, and the each party is required to pay one half of the fees and costs of the arbitrator and all its own costs and attorneys’ fees in connection with the arbitration.

A complete copy of Article IV from the DDA is attached hereto and provides the complete provisions of the Agency’s Equity Participation.

Proposed Alternatives

The Developer initially submitted a proposal requesting the Agency defer its right to exercise the Call Option to demand payment of the Equity participation this December as the Developer indicated they would not have cash available to make the payment (See Attachment 1)

The Agency responded with a proposal that could have potentially accommodated the request to defer the payment but would require interest to accrue on the \$500,000 minimum, limit additional distributions to the One Harbor Center Partnership until reserves were set aside that were sufficient to pay the Agency's Equity Participation, allow the Agency to exercise the Call Option on an annual basis, and modify a parking agreement with the Agency to increase the development utility of an out-lot owned by the Agency surrounded by the One Harbor Center parking lot. The Developer declined this proposal. (See Attachment 2)

After several informal discussions suggesting alternative proposals ranging from time extensions to a discounted payoff, the Developer ultimately submitted a proposal to pay the \$500,000 minimum pursuant to the terms of the DDA, but to also amend the DDA to provide that the payment be capped at \$500,000. This was proposed to address the Developer's concerns associated with their ability to raise more than \$500,000 and potential costs associated with aforementioned arbitration provision, if triggered. (See Attachment 3)

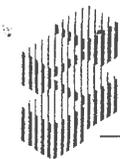
Conclusion

The Successor Agency Board provided staff with direction to proceed with exercising the Call Option to require payment of the Equity Participation pursuant to the terms of Article IV of the DDA as it is currently written. This direction ensures the asset is liquidated expeditiously, and in a manner aimed at maximizing its value by determining the value of the 10% of Total Cumulative Gross Proceeds, and not potentially limiting the amount due, which is consistent with the dissolution laws.

RECOMMENDATION: Adopt Oversight Board Resolution No. OB2014-__: A Resolution of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Suisun City Authorizing the Executive Director to Take All Actions Necessary To Exercise the Successor Agency's Right To Require Payment Of Agency's Equity Participation Interest in the One Harbor Center Office Building.

ATTACHMENTS:

1. Developer's Initial Request
2. Agency Response to Developers Initial Request
3. Developer's Last Request
4. Oversight Board Resolution No. OB2014-__: A Resolution of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Suisun City Authorizing the Executive Director to Take All Actions Necessary To Exercise the Successor Agency's Right To Require Payment Of Agency's Equity Participation Interest in the One Harbor Center Office Building.



RECEIVED

JUN 26 2014

FINANCE

June 17, 2014

Ms. Suzanne Bragdon
City Manager/Executive Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585

RE: One Harbor Center Disposition & Development Agreement - Equity Participation

Dear Ms. Bragdon:

One Harbor Center is a landmark, three-story office building, gracing the waterfront of downtown Suisun City. In partnership with The Redevelopment Agency of the City of Suisun City ("RDA"), The Wiseman Company constructed this building in 2001. Despite the effects of a challenging recession, we maintained One Harbor Center in an impeccable manner. As with every building we manage, the Company feels a connection to the community and makes every effort to further the best interests of that community. In that regard, we are asking for your consideration relative to an early payment that could be requested by the RDA, which request would adversely impact all parties.

As you may know, the One Harbor Center Disposition and Development Agreement ("DDA"), includes an equity participation payment to the RDA in December of 2021. However, the RDA may call for an early payment in December of this year. The purpose of this letter is to request that the RDA (or its successor) not call for this early payment.

One Harbor Center was severely impacted by the recession. The building has significant vacancy and the Partnership owner has little cash. Calling for this early payment might well force a premature sale and eliminate the monies that would otherwise be received by the Agency. Conversely, allowing that payment to occur as scheduled will result in a much larger payment to the RDA.

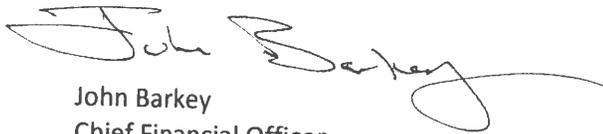
The DDA calls for the RDA to receive the greater of \$500,000 or 10% of Total Cumulative Gross Proceeds generated since inception. When calculated today, based on a hypothetical sale at current market value, the amount due would be \$500,000, since the 10% of proceeds is only \$239,000. Because the Partnership has only \$50,000, and the building has no additional financing capacity, there is no way for it to make the payment and the demand for that payment could force a sale. If that were to occur, we believe that the net sales proceeds would barely retire the secured debt, leaving nothing for the Agency or the owners.

It is in the best interest of all parties to wait for the 2021 scheduled payment. If we are forced to sell now, the RDA will likely receive nothing. Whereas, if we allow the building to recover, the RDA should expect to receive more than \$500,000 in 2021. The office markets are rebounding, and office values are

increasing. We have executed several leases in the past year, and more prospects are evaluating space. We are making progress and full recovery will take time.

Thank you for your assistance. We are available at your convenience to answer your questions and to provide any more information you may need.

Sincerely,

A handwritten signature in black ink, appearing to read "John Barkey". The signature is fluid and cursive, with a large loop at the end of the last name.

John Barkey
Chief Financial Officer
The Wiseman Company

Cc:

Jason Garben – Economic Development Director – City of Suisun City
Doyle Wiseman – President – The Wiseman Company

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Lori Wilson, Mayor Pro-Tem
Jane Day
Michael J. Hudson
Michael A. Segala



CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

October 29, 2014

Mr. Doyle Wiseman
The Wiseman Company, LLC
1261 Travis Boulevard
Fairfield, CA 94533

RE: One Harbor Center DDA – Equity Participation

Dear Mr. Wiseman:

Thank you very much for promptly providing the information requested in my letter dated October 10, 2014.

From our discussions, we appreciate your interest in not selling the building at this time, because, in your opinion, the net proceeds from the sale "...would barely retire the secured debt, leaving nothing for the Agency or the owners."

As you know, opinions of value, even supported by thorough analysis by professional real estate appraisers, vary. Based on our review of both the information you provided regarding the current the building operations and recent sales of other office buildings, we believe the net proceeds from the sale of the One Harbor Center property could be sufficient to retire the existing debt and pay the Successor Agency its Equity Participation pursuant to the terms of the Disposition and Development Agreement ("DDA").

As we discussed, due to the dissolution of redevelopment agencies, the decision to call the option is a determination that will ultimately be made by the California Department of Finance ("DOF"). Since the Successor Agency is obligated to dispose of all assets and properties of the former redevelopment agency *expeditiously and in a manner aimed at maximizing value*, the Successor Agency is motivated to exercise the upcoming option requiring immediate payment.

However, the Successor Agency Board has indicated its willingness to consider and recommend to the DOF that the DDA be amended to defer the Equity Participation payment on the following terms to be reflected in an amendment to the DDA:

- Interest would commence to accrue on \$500,000 floor on a compounded, annual basis at an interest rate consistent with a subordinate loan;

- The partnership will establish a reserve from the property's net cash flow to fund the payment of the Equity Participation obligation;
- The partnership will not make any further distributions of cash to its partners prior to payment in full of the Equity Participation obligation;
- The Agency will have the right to exercise the option on an annual basis; and
- The Parking License Agreement would be modified in a manner that would increase the development utility of the out-lot as discussed at our meeting on October 2, 2014.

If these terms are acceptable, please advise me by November 5, 2014 so we have adequate time to negotiate the details in an amendment to the DDA and submit same for approval by both the Oversight Board and the DOF. I am happy to discuss the proposed amendments at your earliest convenience.

Sincerely,



Suzanne Bragdon
Executive Director
Suisun City Successor Agency

Cc: John Barkey, Wiseman Company, CFO
Jason Garben, Economic Development Director

From: John Barkey <jbarkey@wisemanco.com>
Sent: Thursday, November 13, 2014 1:05 PM
To: Jason Garben
Subject: RE: Harbor Center

Yes. Also, we really don't want to go through an appraisal process due to time and efforts. WE only can raise \$500K. So an appraisal process would be a waste of money and time on all sides.

From: Jason Garben [mailto:jgarben@suisun.com]
Sent: Thursday, November 13, 2014 12:49 PM
To: John Barkey
Subject: RE: Harbor Center

John – Thanks for getting back to me. Just to make sure I am clear, essentially, you're asking for the Equity Participation to be limited to an amount not to exceed \$500,000. I will carry forward the proposal and discuss internally; I'll get back to you tomorrow late morning. Will you be available between 10 am and noon?

Regards,
Jason

From: John Barkey [mailto:jbarkey@wisemanco.com]
Sent: Thursday, November 13, 2014 11:38 AM
To: Jason Garben
Cc: John Barkey
Subject: Harbor Center

Jason, One Harbor Center will pay \$500,000 to the City/Successor Agency in satisfaction of all DDA Equity Participation obligations 180 days after final execution of an Amendment/Agreement detailing these facts. We are available now to review what should be a simple Agreement quickly so that the Successor Agency can submit this to the DOF for their prompt review. We have come a long way on this. I hope the City's team understands this. Please confirm you received this. Standing by.

John Barkey
Chief Financial Officer
The Wiseman Company, LLC
1261 Travis Blvd.
Fairfield, CA 94533
707-427-1212
jbarkey@wisemanco.com
<http://www.wisemanco.com/>

RESOLUTION OB NO. 2014-__

A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY AUTHORIZING THE EXECUTIVE DIRECTOR TO TAKE ALL ACTIONS NECESSARY TO EXERCISE THE SUCCESSOR AGENCY'S RIGHT TO REQUIRE PAYMENT OF AGENCY'S EQUITY PARTICIPATION INTEREST IN THE ONE HARBOR CENTER OFFICE BUILDING

WHEREAS, the Redevelopment Agency of the City of Suisun City (the "Former Agency") was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (the "Law"); and

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, all Section references hereinafter being to such Code), the Former Agency has been dissolved and no longer exists, and pursuant to Section 34173, the Successor Agency to the Redevelopment Agency of the City of Suisun City (the "Successor Agency") has become the successor entity to the Former Agency; and

WHEREAS, pursuant to Section 34179, this Oversight Board has been established for the Successor Agency; and

WHEREAS, the former Suisun City Redevelopment Agency entered into a Disposition Development Agreement (DDA) dated September 19, 2000 (amended December 19, 2000) for the purposes of developing the office building known as One Harbor Center located on Solano County Assessor's Parcel Number 0032-061-400; and

WHEREAS, pursuant to Article IV of the DDA the Agency received an Equity Participation in exchange for the sale of the site and the Agency's contributions to site improvements and payment of development fees; and

WHEREAS, the Equity Participation entitles the Agency to receive the greater of Five Hundred Thousand Dollars (\$500,000) or ten percent (10%) of the "Total Cumulative Gross Proceeds" as defined in Article IV of the DDA; and

WHEREAS, Article IV of the DDA provides the Agency may exercise a "Call Option" to demand payment of the Equity Participation within thirty (30) days after the 13th, 15th, 17th, and 19th anniversary date of the issuance of the Certificate of Occupancy (which was issued on December 14, 2001); and

WHEREAS, the 13th anniversary date of the issuance of the Certificate of Occupancy is December 14, 2014, and the Agency may exercise the Call Option to require payment of the Equity Participation within 30 days after said anniversary (January 13, 2015); and

WHEREAS, pursuant to Section 34181, the Oversight Board is obligated to direct the Successor Agency to dispose of all assets and properties of the former redevelopment agency expeditiously and in a manner aimed at maximizing value; and

WHEREAS, the Successor Agency Board provided staff with direction to proceed with exercising the Agency's right to exercise the call option at its meeting on November 18, 2014; and

WHEREAS, proceeding with exercising the Agency's right to exercise the Call Option is consistent with dissolution law.

NOW THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Direction and Authorization. The Executive Director or her designee is hereby authorized to take all actions necessary to exercise the Agency's right to exercise the Call Option to require payment of the Equity Participation pursuant to Article IV of the DDA.

Section 3. Effective Date. Pursuant to Health and Safety Code Section 34177(f) and Section 34179(h), this Resolution shall be effective five (5) business days after proper notification hereof is given to the California Department of Finance unless the California Department of Finance requests a review of the actions taken in this Resolution, in which case this Resolution will be effective upon approval by the California Department of Finance.

PASSED AND ADOPTED by the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Suisun City at a special meeting held on this 21ST day of November, 2014, by the following vote:

AYES: Boardmembers:

NOES: Boardmembers:

ABSENT: Boardmembers:

ABSTAIN: Boardmembers:

WITNESS my hand and the seal of said City this 21ST day of November 2014.

Linda Hobson, CMC
Secretary