

# A G E N D A

## REGULAR MEETING OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE CITY OF SUISUN CITY REDEVELOPMENT AGENCY

THURSDAY, JUNE 12, 2014

2:00 P.M.

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

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### **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 location.*

Next Board Res. No. OB2014 – 04

### **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-\_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA) – (Garben)

### **REPORTS:** *(Informational items only.)*

- 2) *Chair/Boardmembers*

### **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](http://www.suisun.com/Oversight-Board.html).

## AGENDA TRANSMITTAL

**MEETING DATE:** June 12, 2014

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**OVERSIGHT BOARD AGENDA ITEM:** Board Adoption of Resolution No. OB2014 - \_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA).

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**FISCAL IMPACT:** None. There are no proposed changes to fiscal components of the DDA as part of this action.

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

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**BACKGROUND:** In mid-2005, Main Street West Partners, LLC was selected as the master developer of the Main Street West Project, which initially consisted of 13 former Redevelopment Agency-owned properties in the Waterfront District amounting to approximately 8.4 acres. A Disposition and Development Agreement (the “DDA”) was executed in April 2006. In July 2006, the Agency approved the First Amendment to the DDA, which added a 7.44-acre property (the former Crystal Middle School site) to the Project. In September 2007, the Second Amendment to the DDA was approved, which updated the Schedule of Performance. In January 2009, the Third Amendment to the DDA was approved, which allowed the former Agency to acquire property from MSW Partners, and provide an advance of developer reinvestment funds in the form of a loan, and to amend the Schedule of Performance.

On January 17, 2014, the Oversight Board approved a 120-day extension of the term of the DDA, which also was ultimately approved by the California Department of Finance (the “DOF”) that allowed for more time to negotiate an update to the existing DDA. A copy of the staff report from January 17, 2014, is provided as an attachment for reference.

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**STAFF REPORT:** On February 11, 2014, Main Street West Partners filed a complaint with the Solano County Superior Court for Validation under Code of Civil Procedure Section 863 and for Declaratory Relief to ask the court to validate the continued enforceability of the DDA and modifications to allow for the completion of the performance of the requirements of the DDA.

Health & Safety Code Section 34167(d)(4) provides that “[j]udgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than pass-through payments that are made by the county auditor-controller pursuant to Section 34183” are enforceable obligations. (emphasis added) “Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.” (*Id.*)

Based on the applicable law, staff has continued to work in good faith with Main Street West Partners to update the DDA and to carry the project forward since the previous extension was granted. However, in April 2014, the California Department of Finance appeared in the lawsuit filed by Main Street West Partners and sought to change the venue of the lawsuit from Solano

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**PREPARED BY:**

Jason Garben, Economic Development Director

**REVIEWED/APPROVED BY:**

Suzanne Bragdon, Executive Director

County to Sacramento County Superior Court. These court proceedings have caused further delays and uncertainty.

Recently, on May 22, 2014, the Court granted a change of venue that moved the case to the Sacramento County Superior Court, and the Solano County Superior Court ordered the Sacramento County Superior Court to schedule an expedited case management conference. As of this writing, no date has been set for the case management conference. Thus, as a result of the delay in court proceedings, the updates necessary to complete performance of the existing DDA cannot be submitted to the Court for approval.

Since the project is subject to a pending court process, and it is now unlikely that the Court will resolve the case by the end of the 120-day extension currently in place, which is June 19, 2014, it would be prudent to extend the term of the DDA by 60 days.

Pursuant to Part Two, Article 3.04(C) of the original DDA, the Executive Director may extend times of performance in writing by mutual agreement of the Developer and the Executive Director, unless the Executive Director refers the matter of extension to the Agency Board. Further, pursuant to Part Two, Article 3.23 of the original DDA, Agency staff is authorized to execute changes to the DDA that would not substantially alter the basic business terms of the DDA. Although no changes to the business terms of the DDA are proposed, in light of the dissolution process, Agency Legal Counsel has recommended the extension be considered by the Successor Agency, and reviewed by the Oversight Board. The Successor Agency is scheduled to consider a 60-day extension on June 10, 2014.

As with the previously approved 120-day extension, changes to the business terms are not a component to the proposed 60-day extension to the DDA. This extension is intended to provide a sufficient amount of time to work with Main Street West Partners through the court process to resolve the outstanding issues.

Alternatively, by not extending the term of the DDA, staff believes the affected taxing entities would not be in a better position to benefit from the assets associated with the DDA. If the DDA were ultimately terminated, the disposition process for the properties currently associated with the DDA would be subject to a Finding of Completion from the DOF once the aforementioned lawsuit between the City and the DOF is settled. Upon receiving the Finding of Completion, the Successor Agency would have the ability to adopt a Long-Range Property Management Plan for Oversight Board consideration within six months of the Finding of Completion from the DOF. Thus, staff does not anticipate a benefit to the affected taxing entities if the termination of the DDA occurred on June 19, 2014, or 60 days thereafter as anticipated by the proposed extension.

Staff recommends the Oversight Board adopt the resolution authorizing the Executive Director to extend the term of the Main Street West DDA by 60 days.

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**RECOMMENDATION:** It is recommended that the Oversight Board adopt Resolution No. OB2014 - \_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA).

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**ATTACHMENTS:**

1. January 17, 2014, Staff Report
2. Resolution No. OB2014 - \_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA).

## AGENDA TRANSMITTAL

**MEETING DATE:** January 17, 2014

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**OVERSIGHT BOARD AGENDA ITEM:** Agency Adoption of Resolution No. OB2014 - \_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA)

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**FISCAL IMPACT:** None. There are no proposed changes to fiscal components of the DDA as part of this action.

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

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**BACKGROUND:** In mid-2005, Main Street West Partners, LLC was selected as the master developer of the Main Street West Project, which initially consisted of 13 former Redevelopment Agency-owned properties in the Waterfront District amounting to approximately 8.4 acres for development of residential, commercial, and mixed-use projects. A Disposition and Development Agreement (DDA) was executed in April 2006. In July 2006, the Agency approved the First Amendment to the DDA, which added a 7.44-acre property (the former Crystal Middle School site) to the Project. In September 2007, the Second Amendment to the DDA was approved, which updated the Schedule of Performance. In January 2009, the Third Amendment to the DDA was approved, which allowed the former Agency to acquire property from MSW Partners, and provide an advance of developer reinvestment funds in the form of a loan, and to amend the Schedule of Performance. A map is attached that provides a graphic representation of the location of these properties.

Despite the economic downturn that developed into the “Great Recession,” significant progress has been made since the inception of this project on several fronts including:

- The “Harbor Square” mixed-use project located at the southwest corner of Main Street and Solano Street is complete and nearing 77% occupancy. This project contains approximately 40,000 square feet of retail and office space, and includes a public courtyard area that features the fireplace centerpiece.
- Main Street West Partners purchased a privately held 2± acre site adjacent to the eastern line of the One Harbor Center office development at the north end of the waterfront, and subsequently sold the property to Basin Street Properties which resulted in the development of the Hampton Inn and Suites, Suisun City’s first hotel in more than 50 years.
- Two other commercial projects have been approved through construction documents (on Parcels 3 and 7). Parcel 3 will consist of approximately 5,500 square feet of ground floor retail with 5,500 square feet of office (or possibly residential) on the second floor. Parcel 7 consists of approximately 4,100 square feet of restaurant space on the ground floor with a 3,600± square foot banquet facility on the second floor. These projects are positioned such that construction can begin as soon as the market will allow.

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**PREPARED BY:**

Jason Garben, Economic Development Director

**REVIEWED/APPROVED BY:**

Suzanne Bragdon, Executive Director

- A tentative subdivision map has been approved on Parcel 10 (currently 16 single-family residences similar in size and character of existing Victorian Harbor product). However, modifications are expected to the tentative map to better accommodate current market conditions.

The Main Street West Project fell victim to the “Great Recession,” which resulted in project delays due to economic conditions beyond the control of the City or Main Street West Partners. However, with the economic recovery in place, Main Street West Partners is eager to commence with the development in and around the Waterfront District and has been working with staff on an amendment to the DDA that will allow the original intent of the DDA to be carried out within the confines of the State laws governing the dissolution of the former redevelopment agencies for the benefit of the City as well as the affected taxing entities.

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**STAFF REPORT:** The existing DDA is set to expire on February 19, 2013. Significant progress is being made on modified terms and conditions to the DDA that will allow the development to move forward in light of current market conditions and redevelopment agency dissolution law, which will ultimately benefit all of the taxing entities. However, more time is required to work through the process, due to issues caused by the dissolution of the Redevelopment Agency and the change in market conditions; thus, the request for an extension.

Pursuant to Part Two, Article 3.04(C) of the original DDA, the Executive Director may extend times of performance in writing by mutual agreement of the Developer and the Executive Director, unless the Executive Director refers the matter of extension to the Agency Board. Further, pursuant to Part Two, Article 3.23 of the original DDA, Agency staff is authorized to execute changes to the DDA that would not substantially alter the basic business terms of the DDA. By simply extending the term of the DDA by 120 days, no changes to the business terms of the DDA are proposed. However, in light of the dissolution process, Agency Legal Counsel recommended the extension be considered by the Successor Agency, and approved by the Oversight Board. The Successor Agency approved a 120-day extension at its last meeting on January 7, 2014.

By providing for an extension to the term of the DDA, the parties are hopeful to resolve the issues and work through the process that will allow the Main Street West project to move forward. Given the significant investment that Main Street West Partners has in this project, coming to terms that will allow the project to move forward, versus the alternative of starting over is clearly beneficial to all involved. Specific examples of the benefits include:

1. Expedited Property Sales - Allowing property sales, which will result in a one-time cash windfall to affected taxing entities, to occur sooner rather than later. If the DDA were terminated, the fate of these properties would ultimately be determined by a Long Range Property Management Plan. The Successor Agency needs a Finding of Completion from the Department of Finance (DOF) to receive an approval on, and execute a Long Range Property Management Plan (which would include property disposition). A Finding of Completion will not be issued until the lawsuit between the City and the DOF is settled, thus any sales of property through a Long Range Property Management Plan are not expected in the near term.
2. Development Impact Fees - The property is being sold for development, not speculation. Thus, there will be additional one time fees paid to certain affected taxing entities by way of development impact fees, as the DDA requires the properties be sold and developed.
3. On-Going Property Tax Revenues – Development of the properties sold will generate additional property tax revenues into perpetuity for the affected taxing entities. Again,

since the properties are being sold for development, on-going property tax revenues will be realized sooner pursuant to the DDA.

4. Developer Reinvestment Effect – One of the fundamental principles of the DDA requires the developer to reinvest a portion of the profits from the sale of the residential components of the project into the commercial components that are a part of the project, which commercial components might otherwise not be viable for development. This developer reinvestment requirement would result in additional benefits outlined above in points 1 through 3 that might not otherwise be realized.
5. Repayment of \$500k Line of Credit – In 2009, the Agency provided a Line of Credit as an advance of the required reinvestment dollars (mentioned in #4 above) to Main Street West Partners that were to be paid back from the sale of the residential component of the project. The residential developments have been delayed to due to market conditions, thus the line of credit has not yet been paid back. Main Street West Partners intends to proceed with residential development in an expedited manner in order to pay off this line of credit, which will ultimately end up with the taxing entities. If the DDA were terminated, the repayment of the line of credit would be at risk.

As previously mentioned, changes to the business terms are not a component to the proposed 120-day extension to the DDA. This extension is intended to provide a sufficient amount of time to work with Main Street West Partners to resolve the outstanding issues and work through the process in light of the requirements and procedures in place pursuant to the dissolution laws.

Alternatively, by not extending the term of the DDA, staff believes the affected taxing entities would not be in a better position to benefit from the assets associated with the DDA. If the DDA were ultimately terminated, the disposition process for the properties currently associated with the DDA would be subject to a Finding of Completion from the DOF once the aforementioned lawsuit between the City and the DOF is settled. Upon receiving the Finding of Completion, the Successor Agency could have the ability to adopt a Long Range Property Management Plan for Oversight Board consideration within 6 months of the Finding of Completion from the DOF. Thus, staff does not anticipate a benefit to the affected taxing entities if the termination of the DDA occurred on February 19, 2014, or 120 days thereafter as anticipated by the proposed extension.

Staff recommends the Oversight Board adopt the resolution authorizing the Executive Director to extend the term of the Main Street West DDA by 120 days.

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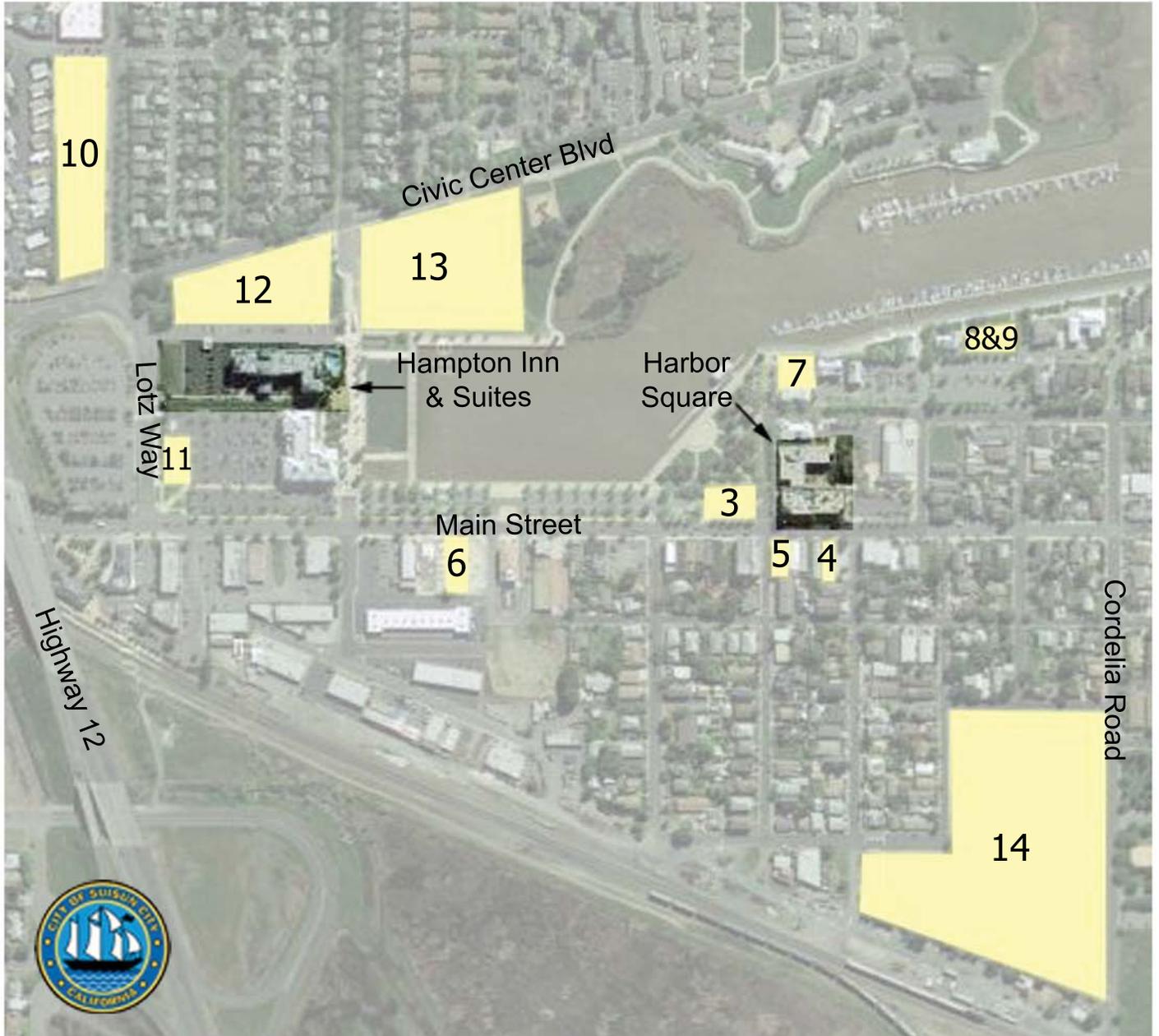
**RECOMMENDATION:** Adopt Resolution No. OB2014 - \_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA)

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**ATTACHMENTS:**

1. Property ID Map
2. Resolution No. OB2014 - \_\_: Authorizing the Executive Director to Extend the Term of the Main Street West Disposition and Development Agreement (DDA)

# MAIN STREET WEST DDA PARCELS



**RESOLUTION NO. OB 2014-01**

**A RESOLUTION OF THE CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO  
THE REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY  
AUTHORIZING THE EXECUTIVE DIRECTOR TO EXTEND THE TERM OF THE  
MAIN STREET WEST DISPOSITION AND DEVELOPMENT AGREEMENT (DDA)**

**WHEREAS**, the California State Legislature enacted Assembly Bill 1X26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

**WHEREAS**, pursuant to Health and Safety Code Section 34173, the City Council of the City of Suisun City (the “City Council”) declared that the City of Suisun City (the “City”) would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Suisun City (the “Dissolved RDA”) effective February 1, 2012; and

**WHEREAS**, pursuant to AB 1484 ("AB 1484"), enacted June 27, 2012, to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

**WHEREAS**, the Dissolution Act provides for the appointment of an oversight board (the “Oversight Board”) with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

**WHEREAS**, Health and Safety Code Section 34181(e) provides the Oversight Board may approve amendments to agreements with private parties if it finds that amendments would be in the best interest of the taxing entities; and

**WHEREAS**, the Redevelopment Agency of the City of Suisun City entered into a Disposition and Development Agreement (DDA) with Main Street West Partners (the Developer) dated April 17, 2006; and

**WHEREAS**, said DDA has been revised from time to time by Amendments Nos. 1 – 3; and



**RESOLUTION NO. OB2014 - \_\_**

**A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY AUTHORIZING THE EXECUTIVE DIRECTOR TO EXTEND THE TERM OF THE MAIN STREET WEST DISPOSITION AND DEVELOPMENT AGREEMENT (DDA)**

**WHEREAS**, the California State Legislature enacted Assembly Bill 1X26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

**WHEREAS**, pursuant to Health and Safety Code Section 34173, the City Council of the City of Suisun City (the "City Council") declared that the City of Suisun City (the "City") would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Suisun City (the "Dissolved RDA") effective February 1, 2012; and

**WHEREAS**, pursuant to AB 1484 ("AB 1484"), enacted June 27, 2012, to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

**WHEREAS**, the Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

**WHEREAS**, Health and Safety Code Section 34181(e) provides that the Oversight Board may approve amendments to agreements with private parties if it finds that amendments would be in the best interest of the taxing entities; and

**WHEREAS**, the Redevelopment Agency of the City of Suisun City entered into a Disposition and Development Agreement (DDA) with Main Street West Partners (the Developer) dated April 17, 2006; and

**WHEREAS**, said DDA has been revised from time to time by Amendments Nos. 1 – 3; and

**WHEREAS**, on January 17, 2014, the Oversight Board adopted a resolution extending the term of the DDA 120 days through June 19, 2014, which was subsequently approved by the California Department of Finance; and

**WHEREAS**, on February 11, 2014, Main Street West Partners filed a complaint with the Solano County Superior Court for Validation under Code of Civil Procedure Section 863 and for Declaratory Relief to ask the court to validate the continued enforceability of the DDA and modifications to allow for the completion of the performance of the requirements of the DDA; and

**WHEREAS**, in April 2014, the California Department of Finance appeared in the lawsuit filed by Main Street West Partners and sought to change the venue of the lawsuit from Solano

County to Sacramento County Superior Court. These court proceedings have caused further delays and uncertainty; and

**WHEREAS**, since the project is subject to a pending court process and now it is unlikely that the Court will resolve the case by the end of the 120-day extension currently in place through June 19, 2014, it would be prudent to extend the term of the DDA by 60 days; and

**WHEREAS**, pursuant to Part Two, Article 3.04 of the DDA, the Developer and Agency wish to extend the term of the DDA for 60 days beyond the current expiration including all obligations and conditions contained therein; and

**WHEREAS**, other than extending the time for performance under the current DDA, said extension would not alter or amend any business terms of the DDA or any of its amendments; and

**WHEREAS**, based on the information presented in the January 17, 2014, staff report, the Oversight Board finds the 60-day extension of the DDA would be in the best interests of the taxing entities.

**NOW, THEREFORE, BE IT RESOLVED** that the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Suisun City hereby authorizes the Executive Director, or her designee, to execute an extension of 60 days to all terms, conditions, and obligations set forth in the Main Street West DDA.

**PASSED AND ADOPTED** at a regular meeting of the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Suisun City duly held on Thursday, the 12<sup>th</sup> day of June 2014, by the following vote:

<b>AYES:</b>	Boardmembers:	_____
<b>NOES:</b>	Boardmembers:	_____
<b>ABSENT:</b>	Boardmembers:	_____
<b>ABSTAIN:</b>	Boardmembers:	_____

**WITNESS** my hand and the seal of said City this 12<sup>th</sup> day of June 2014.

\_\_\_\_\_  
Linda Hobson, CMC  
Secretary