



STAFF REPORT

Date: August 7, 2014

To: Mayor and Members of City Council

From: Derek P. Cole, City Attorney

Cc: Bryan Montgomery, City Manager; William Galstan, Special Counsel;
Paul Abelson, Finance Director

Subject: A Joint Resolution of the City Council of the City of Oakley and the Successor Agency to the Oakley Redevelopment Agency Authorizing and Accepting, Respectively, a Loan Regarding Payment to Bay Cities Paving and Grading, Inc. for Capital Improvement Project Numbers 11 and 103

FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON AUGUST 12, 2014

The City has been negotiating final payment with Bay Cities Paving and Grading, Inc. ("Bay Cities") for the Main Street/Vintage Way Project, and in reaching a final agreement, Bay Cities has indicated that near-term payment is an important component of the terms. The Agency has been expecting the funds to make this payment would come from the final closing on the Centro Mart property; and the closing has been delayed pending some requested input from the State Department of Finance (DOF). The attached resolution is presented in the event that the Successor Agency does not have sufficient funds on hand to make the final Project payment within the final to be agreed timeframe. The resolution authorizes the City Manager to execute a temporary loan from the City to the Successor Agency to provide funds for such payment if necessary. If the loan is executed, the Successor Agency would repay the loan as part of a forthcoming recognized obligation payment schedule, or "ROPS," subject to Oversight Board and Department of Finance approval.

If approved, the City Attorney would draft a written agreement between the City and Successor Agency consistent with all terms set forth in the resolution. The City Manager would be authorized to execute the agreement following such drafting.

At this juncture, Staff does not know whether the proposed loan will be necessary as it is pursuing other options related to helping the Successor Agency obtain sufficient cash to make final payment to Bay Cities as soon as possible. Staff should have more information regarding such options at the time the City Council meets on August 12. Staff nonetheless requests that the Council approve the resolution to ensure that it can proceed with a resolution of the Bay Cities payment if other options are not available.

RESOLUTION NO. _____

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AND THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT
AGENCY AUTHORIZING AND ACCEPTING, RESPECTIVELY, A LOAN
REGARDING PAYMENT TO BAY CITIES PAVING AND GRADING, INC. FOR
CAPITAL IMPROVEMENT PROJECT NOS. 11 AND 103**

WHEREAS, the Successor Agency to the Oakley Redevelopment Agency ("Successor Agency") and Bay Cities Paving and Grading, Inc. ("Bay Cities") entered into an agreement on June 12, 2012 for Bay Cities to perform the general requirements for the Main Street Improvement Project, Capital Improvement Project Nos. 11 and 103 (collectively, "Project").

WHEREAS, the Successor Agency has withheld final payment to Bay Cities due to delays in the work performed, and insufficient funds available due to the delay in closing the sale of the property at 3100 Main Street.

WHEREAS, the Successor Agency and Bay Cities are presently negotiating regarding the amount of final payment that Bay Cities shall receive, and are near a final agreement on the amount.

WHEREAS, to ensure that the Successor Agency has sufficient cash on hand to pay the amount of final payment to which the parties agree timely, the City is willing and able to loan up to \$700,000 to the Successor Agency to facilitate final payment prior to the Successor Agency receiving such funds in the time and manner expected through its compliance with the Redevelopment Dissolution Act.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the City Manager, following the drafting of an appropriate written agreement by the City Attorney, shall be authorized to execute an agreement on behalf of the City authorizing a loan of no more than \$700,000 to the Successor Agency to provide for final payment to Bay Cities concerning the Project; and

NOW, THEREFORE, BE IT RESOLVED by the Board of the Successor Agency to the Oakley Redevelopment Agency, that the Executive Director, following the drafting of an appropriate written agreement approved by its Legal Counsel, shall be authorized to execute an agreement on behalf of the Successor Agency, accepting a loan of no more than \$700,000 from the City to provide for final payment to Bay Cities concerning the Project.

BE IT FURTHER RESOLVED that any written agreement between the City and Successor Agency shall provide that, because the Project was funded exclusively by proceeds from tax-exempt bonds the former Redevelopment Agency issued in 2008, repayment of any loan to complete this bond funded

project, shall be made available from the Successor Agency's first receipts from the sale of 2008 bond-related assets and/or reimbursements from others for bond-related projects costs.

BE IT FURTHER RESOLVED that any written agreement entered into pursuant to this Resolution shall not be effective unless and until: 1) it is approved by the Oversight Board of the Successor Agency to the Oakley Redevelopment Agency; 2) it is approved by the California Department of Finance and evidenced by a Final Determination Letter irrevocably approving both the loan agreement and its terms and that the repayment obligation shall be immediately includable on the Successor Agency's recognized obligation payment schedule.

BE IT FURTHER RESOLVED that the City Council finds that the payment of funds authorized within is purely a fiscal activity and not a "project," as defined under California Environmental Quality Act Guideline section 15378(b)(4).

The foregoing resolution was adopted at a regular meeting of the City Council of the City of Oakley held on the _____ day of _____, 2014, by Councilmember _____, who moved its adoption, which motion being duly seconded by Councilmember _____, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Randy Pope, MAYOR

ATTEST:

Libby Vreonis, CITY CLERK

Date