

RESOLUTION NO. 8

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE WESTMINSTER REDEVELOPMENT AGENCY REAFFIRMING APPROVED OVERSIGHT BOARD RESOLUTION 4, AUTHORIZING THE SUCCESSOR AGENCY TO APPROVE AND EXECUTE AN AMENDMENT TO THE AGREEMENT WITH GRIFFIN STRUCTURES, INC. FOR PROGRAM MANAGEMENT

WHEREAS, on November 9, 1982, in accordance with California Community Redevelopment Law (Health and Safety Code, Section 33000 et seq.) and Westminster City Council Ordinance 1954, the Agency-City Relationship Agreement (1982 Agreement) was established authorizing the City, its officers and employees to perform services for the Agency in carrying out its work of redevelopment and permitting reimbursement by the Agency to the City for such activities; and

WHEREAS, on October 13, 2010, pursuant to the 1982 Agency-City Relationship Agreement the City entered into a Program Management Agreement with Griffin Structures Inc., for program management services including those necessary to carry out work of the Agency; and

WHEREAS, as part of the 2011-2012 State Budget Bill, the California State Legislature enacted, and Governor Brown signed, ABx1 26, eliminating every redevelopment agency statewide. The California Supreme Court's (California Redevelopment Association vs. Matosantos, Case No. S194861) action on December 29, 2011 validated ABx1 26 (Dissolution Act), requiring the dissolution statewide of redevelopment agencies.

WHEREAS, on January 11, 2012 the Westminster City Council took affirmative action, by approving Resolution 4388, to become the Successor Agency for the Westminster Redevelopment Agency (SAWRA) (Health and Safety Code (HSC) Section 34713); and

WHEREAS, as part of the 2012-2013 State Budget Bill, the California State Legislature enacted, and Governor Brown signed AB 1484, which made technical and substantive amendments to the Dissolution Act; and

WHEREAS, on October 20, 2012 the City received notice from the Department of Finance asserting that the agreement associated with Recognized Obligation Payment Schedule 2012-13B, Line Item 34, with Griffin Structures Inc. for Program Management on redevelopment and bond obligated projects is not an enforceable obligation as defined by HSC Section 34171 (d); and

WHEREAS, on November 8, 2012 the Oversight Board approved Resolution No. 4, attached hereto as Exhibit "A", amending the October 13, 2010 Griffin Structures Agreement, adding SAWRA pursuant to HSC Section 34177(c) and 34177.3 for the purpose of clarifying that the 2010 Griffin Structures Agreement was entered into by the City of Westminster on behalf of the former Westminster Redevelopment Agency pursuant to the 1982 City/Agency Relationship Agreements;

WHEREAS, on December 18, 2012 the City received notification that the Department of Finance determined that the 1982 City/Agency Relationship Agreements was not valid pursuant to HSC Section 34171 (d)(2); and

WHEREAS, on December 21, 2012 the City received notification that the Department of Finance Objected to the Oversight Board action pursuant to HSC Section 34163(c) and further authorized this matter to be returned to the Oversight Board for action pursuant to HSC Section 34179(h); and

WHEREAS, on January 16, 2013 at the Superior Court of California, County of Sacramento; a Petition of Writ of Mandate hearing was held for CRFL Family Apartments, L.P., et al v. Ana J. Matosantos, in her capacity as Director of the State of Department of Finance, et al., (Case Number 34-2012-80001354). Judge Timothy M. Frawley ruled that the Department of Finance's reliance upon HSC 34163 to denial certain enforceable obligations was misplaced, because HSC 34163 only affected former redevelopment agencies and not successor agencies. He further ruled that HSC 34177.3 "does not explicitly prohibit successor agencies from entering into new contracts or amendments of existing contracts, but only prohibits successor agencies from creating new enforceable obligations.

WHEREAS, this Amendment to the Griffin Structures Agreement, attached hereto as Exhibit "1," is not a new enforceable obligation, as alleged, but only amends a previously entered into enforceable obligation which was found to be permissible by CRFL Family Apartments, L.P., et al v. Ana J. Matosantos, in her capacity as Director of the State of Department of Finance, et al., (Case Number 34-2012-80001354).

WHEREAS the Oversight Board finds that the aforementioned Department of Finance's determinations are incorrect pursuant to the following: the 1982 City/Agency Relationship Agreement complies with HSC Section 34171(d)(2) as the Agreement was created within two years of Agency formation; the Program Management Agreement with Griffin Structures to carry out work of the Agency was executed prior to the statutory deadline of June 28, 2011; CRFL Family Apartments, L.P., et al v. Ana J. Matosantos, in her capacity as Director of the State of Department of Finance, et al., (Case Number 34-2012-80001354); and the Department of Finance's December 21, 2012 objection references HSC Section 34163(c) which prohibits only a redevelopment agency from amending or modifying existing agreements, however Oversight Board Resolution No. 4 provides approval for the SAWRA to conduct work of winding down the redevelopment agency pursuant to HSC 34171(c) and 34177.3 by authorizing SAWRA to enter into an agreement that provides the continuance of completing

redevelopment projects which meet the enforceable obligation requirement.

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE WESTMINSTER REDEVELOPMENT AGENCY, DOES HEREBY RESOLVE, DETERMINE, FIND AND ORDER 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. Determinations. The Oversight Board finds that the aforementioned Department of Finance's determinations are incorrect for the following reasons: the 1982 City/Agency Relationship Agreements complies with HSC Section 34171(d)(2) as the Agreement was created within two years of Agency formation; the Program Management Agreement with Griffin Structures to carry out work of the Agency was executed prior to the statutory deadline of June 28, 2011 and was entered into by the City of Westminster on behalf of SAWRA pursuant to the 1982 City/Agency Relationship Agreements; and, pursuant to CRFL Family Apartments, L.P., et al v. Ana J. Matosantos, in her capacity as Director of the State of Department of Finance, et al., (Case Number 34-2012-80001354), the Department of Finance's December 21, 2012 reliance upon HSC Section 34163(c), and application thereof to SAWRA, is incorrect because HSC Section 34163 only affects actions of the former redevelopment agencies and not successor agencies; and Oversight Board Resolution No. 4 provides approval for the SAWRA to conduct work of winding down the redevelopment agency pursuant to HSC 34177(c) and 34177.3 by authorizing SAWRA to amend an agreement without creating a new enforceable obligation so that work can be completed as needed by a valid enforceable obligation of SAWRA.

SECTION 3. Authorization. The Executive Director, upon approval of the Oversight Board and Department of Finance is hereby authorized to execute Amendment No. 4 to the Griffin Structures Agreement attached hereto as Exhibit "1".

SECTION 3. Certification. The Agency Secretary shall certify to the adoption of this Resolution on behalf of the Successor Agency.

SECTION 5. Effective Date. This Resolution shall become effective within five business days of adoption or in compliance with the Health and Safety Code.

PASSED, APPROVED and ADOPTED at a Special Meeting of the Oversight Board of the Successor Agency to the Westminster Redevelopment Agency of the City of Westminster held this 14th day of February, 2013, by the following vote:

AYES:	BOARD MEMBERS:	ANDERSON, BACKS, DELGADO, MANFRO
NOES:	BOARD MEMBERS:	NONE
ABSENT:	BOARD MEMBERS:	DUNN, RICE


DON ANDERSON, VICE CHAIR

ATTEST:


ROBIN L. ROBERTS, AGENCY SECRETARY
STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF WESTMINSTER)

I, ROBIN ROBERTS, hereby certify that I am the duly appointed Agency Secretary of the Successor Agency to the Westminster Redevelopment Agency, and that the foregoing resolution was duly adopted at a special meeting of the Oversight Board to the Successor Agency to the Westminster Redevelopment Agency held on the 14th day of February, 2013.


Robin L. Roberts, MMC
Agency Secretary

RESOLUTION NO. 4

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE WESTMINSTER REDEVELOPMENT AGENCY AUTHORIZING THE SUCCESSOR AGENCY TO APPROVE AND EXECUTE AN AGREEMENT WITH GRIFFIN STRUCTURES, INC., FOR PROGRAM MANAGEMENT

WHEREAS, on November 9, 1982, in accordance with California Community Redevelopment Law (Health and Safety Code, Section 33000 et seq.) and Westminster City Council Ordinance 1954, the Agency-City Relationship Agreement (1982 Agreement) was established authorizing the City, its officers and employees to perform services for the Agency in carrying out its work of redevelopment and permitting reimbursement by the Agency to the City for such activities; and

WHEREAS, on October 13, 2010, pursuant to the 1982 Agency-City Relationship Agreement the City entered into a Program Management Agreement with Griffin Structures INC., for program management services including those necessary to carry out work of the Agency; and

WHEREAS, as part of the 2011-2012 State Budget Bill, the California State Legislature enacted, and Governor Brown signed, ABx1 26, eliminating every redevelopment agency statewide. The California Supreme Court's (*California Redevelopment Association vs. Matosantos, Case No. S194861*) action on December 29, 2011 validated ABx1 26 (Dissolution Act), requiring the dissolution statewide of redevelopment agencies.

WHEREAS, on January 11, 2012 the Westminster City Council took affirmative action, by approving Resolution 4388, to become the Successor Agency for the Westminster Redevelopment Agency (SAWRA) (Health and Safety Code Section 34713); and

WHEREAS, as part of the 2012-2013 State Budget Bill, the California State Legislature enacted, and Governor Brown signed AB 1484, which made technical and substantive amendments to the Dissolution Act; and

WHEREAS, on October 20, 2012 the City received notice from the Department of Finance asserting that the agreement between City and Griffin Structures INC., is not an enforceable obligation for the redevelopment project related matters based solely upon the agreement not being made with the former Westminster Redevelopment Agency; and

WHEREAS, SAWRA understands that the 2010 City/Griffin Structures INC., Agreement is an enforceable obligation when referenced with the 1982 Agency/City

Relationship Agreement, however based on the Department of Finances assertion, as a measure to confirm the relationship, pursuant to Health and Safety Code 34177.3(b) based on existing law between the former Westminster Redevelopment Agency and the City established by the 1982 Agreement, staff recommends that the Oversight Board approve, pursuant to Health & Safety Code § 34177.3(b), authorize SAWRA to enter into the attached agreement between SAWRA and Griffin Structures INC., effective the date of the former redevelopment agency dissolution (February 1, 2012), and authorize the Executive Director and staff to execute the agreement and continue to obtain legal services as previously provided for the Agency; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, THE SUCCESSOR AGENCY TO THE WESTMINSTER REDEVELOPMENT AGENCY, DOES HEREBY RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

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

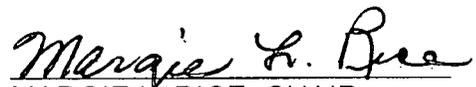
SECTION 2. Authorization. The Executive Director, upon approval of the Successor Agency to the Westminster Redevelopment Agency is hereby authorized to execute the agreement attached hereto as Exhibit "1".

SECTION 3. Certification. The Agency Secretary shall certify to the adoption of this Resolution on behalf of the Successor Agency.

SECTION 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED and ADOPTED at a Special Meeting of the Oversight Board of the Successor Agency to the Westminster Redevelopment Agency of the City of Westminster held this 8th day of November, 2012, by the following vote:

AYES:	BOARD MEMBERS:	RICE, ANDERSON, BACKS, MANFRO
NOES:	BOARD MEMBERS:	NONE
ABSENT:	BOARD MEMBERS:	DELGADO, DUNN, LAM


MARGIE L. RICE, CHAIR

ATTEST:

ROBIN L. ROBERTS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF WESTMINSTER)

I, ROBIN ROBERTS, hereby certify that I am the duly appointed Clerk of the City of Westminster, and that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Westminster held on the 8th day of November, 2012.



Robin L. Roberts
City Clerk

PROJECT MANAGEMENT AGREEMENT
FOR POLICE PARKING FACILITIES AND SITE RELATED
IMPROVEMENTS
ASSIGNMENT, ASSUMPTION, AND AMENDMENT NO. 4

This Amendment 4 to the Project Management Agreement for Police Parking Facilities and Related Site Improvements (the "Amendment") is by and between the City of Westminster, a Municipal Corporation of the State of California, (the "City"), the Successor Agency to the Westminster Redevelopment Agency (the "Agency"), and Griffin Structures, a California Corporation ("Program Manager"), on the 24th day of October, 2012, with reference to the following facts:

WHEREAS, on November 9, 1982, in accordance with California Community Redevelopment Law (Health and Safety Code, Section 33000 et seq.) and Westminster City Council Ordinance 1954, the Agency-City Relationship Agreement, attached hereto as Exhibit "1," ("1982 Agreement") was established authorizing the City, its officers and employees to perform services for the Agency in carrying out its work of redevelopment and permitting reimbursement by the Agency to the City for such activities; and

WHEREAS, on March 9, 2009 and October 13, 2010, pursuant to the 1982 Agency-City Relationship Agreement the City entered into Project Management Agreements with Griffin Structures, attached hereto as Exhibit "2," ("Griffin Agreement") to carry out work of the Agency; and

WHEREAS, as part of the 2011-2012 State Budget Bill, the California State Legislature enacted, and Governor Brown signed, ABx1 26, eliminating every redevelopment agency statewide. The California Supreme Court's (*California Redevelopment Association vs. Matosantos, Case No. S194861*) action on December 29, 2011 validated ABx1 26 (Dissolution Act), requiring the dissolution of statewide redevelopment agencies.

WHEREAS, on January 11, 2012 the Westminster City Council took affirmative action, by approving Resolution 4388, to become the Successor Agency for the Westminster Redevelopment Agency (Health and Safety Code Section 34713); and

WHEREAS, as part of the 2012-2013 State Budget Bill, the California State Legislature enacted, and Governor Brown signed AB 1484, which made technical and substantive amendments to the Dissolution Act; and

WHEREAS, on October 20, 2012 the City received notice from the Department of Finance asserting that the agreement between City and Project Manager is not an enforceable obligation for the approved redevelopment project known as the Police Facility, Parking, and Related Site Improvement based solely upon the agreement not being made with the Agency or the former Westminster Redevelopment Agency; and

WHEREAS, in order to clarify the relationship between the former Westminster Redevelopment Agency and the City established by the 1982 Agreement, the Successor Agency and its Oversight Board desire to amend, pursuant to Health & Safety Code § 34180(h), the Griffin Agreement to reflect the relationship established by the 1982 Agreement and to clarify to the Department of Finance that the Griffin Agreement was entered into for the purpose of engaging in redevelopment activities; and

WHEREAS, Health and Safety Code § 34180(h) authorizes the City and SAWRA to enter into this Agreement provided that the Agreement has already been included as an enforceable obligation in the SAWRA's Recognized Obligation Payment Schedule;

WHEREAS, the Griffin Agreement was listed as an enforceable obligation in the ROPS 3 Period (January 1, 2013 through June 30, 2013).

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. Agreement to be Bound by the Griffin Agreement. SAWRA hereby agrees to perform all duties and obligations as required by the Griffin Agreement. SAWRA acknowledges that it has received a copy of the Griffin Agreement, and has had an adequate opportunity to review its provisions with legal counsel of its own choice. By executing this Amendment, SAWRA is asserting that it has no objections to any of the terms and conditions contained in the Griffin Agreement, and that SAWRA is fully bound by the Griffin Agreement to the same degree as the City was bound.
2. Agreement to Assignment by Program Manager. The Program Manager hereby agrees to the assignment of the City's duties, rights and obligations to perform the Griffin Agreement to SAWRA as described in this Amendment.
3. Agreement to Assign by City. The City hereby agrees to assign all duties, rights and obligations as required by the Griffin Agreement to SAWRA.
4. Modification to Griffin Agreement. In light of this Amendment, the City, SAWRA and Project Manager hereby agree to modify the Griffin Agreement in the following manner:
 - a. All references made to the City of Westminster or the Westminster City Council are changed to refer to the Successor Agency of the Westminster Redevelopment Agency ("SAWRA") or SAWRA's governing body, as applicable.
 - b. Paragraph 33 "Notice" is hereby changed in the following manner:

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by facsimile or other telegraphic communication in the manner provided in this Section, to the following persons:

To Successor Agency of the Westminster Redevelopment Agency:

Successor Agency of the Westminster Redevelopment Agency
8200 Westminster Blvd.
Westminster, California 92683
Attention: Eddie Manfro
Facsimile: (714) 379 -9604
E-Mail: EManfro@ci.westminster.ca.us

With a copy to:

Jones & Mayer
Attention: Christian L. Bettenhausen
3777 N. Harbor Blvd.
Fullerton, CA 92835
Facsimile: (714) 446 -1448
E-Mail: clb@jones- mayer.com

To Program Manager:

Griffin Structures, Inc.
385 Second Street
Laguna Beach, California 92651
Attention: Roger Torriero
Facsimile: (949) 497 -8883
E-Mail: Rtorriero @griffinholdings.net

A Party may change its address by giving notice in writing to the other Party. Thereafter, any notice, tender, demand, delivery, or other communication shall be addressed and transmitted to the new address. If sent by mail, any notice, tender, demand, delivery, or other communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by facsimile, any notice, tender, demand, delivery, or other communication shall be effective or deemed to have been given twenty - four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames,

weekends, federal, state, religious, County of Orange or City holidays shall be excluded. Only the Principal Members of Program Manager are authorized to execute documents (e.g., change orders) on behalf of Program Manager.

5. Redevelopment Dissolution Disclaimer. Parties acknowledge and agree that with the dissolution of the Westminster Redevelopment Agency under the Health & Safety Code, ultimate approval of this Amendment is subject to a number of legal requirements including but not limited to approvals by the State of California and County of Orange ("Dissolution Approvals"). Parties acknowledge and agree that neither SAWRA nor the City have any control over Dissolution Approvals. Parties hereby acknowledge and agree that it will not bring any claims, demands, suits, actions or proceedings of any kind or nature against the other parties, their agents, employees, consultants or volunteers related to Dissolution Approvals of this Amendment.
6. Mutual Indemnification. SAWRA hereby agrees to defend, indemnify and hold City harmless from all claims, demands, causes of action, liabilities, losses, costs and expenses (including, without limitation, costs of suit and reasonable attorneys' fees) arising from or in connection with the obligations and liabilities assumed by SAWRA hereunder.

City hereby agrees to defend, indemnify and hold SAWRA harmless from all claims, demands, causes of action, liabilities, losses, costs and expenses (including without limitation costs of suit and reasonable attorneys' fees) arising from or in connection with any obligation of liability of City under the Griffin Agreement that accrue prior to the Effective Date.

SAWRA and City agree to defend, indemnify and hold Project Manager harmless from all claims, demands, causes of actions, liabilities, losses, costs and expenses (including, without limitation, costs of suit and reasonable attorneys' fees) arising from or in connection with SAWRA's and City's performance under this Amendment or the Griffin Agreement.

Project Manager agrees to defend, indemnify and hold SAWRA and City harmless from all claims, demands, causes of actions, liabilities, losses, costs and expenses (including, without limitation, costs of suit and reasonable attorneys' fees arising from or in connection with Project Manager's performance under this Amendment or the Griffin Agreement.

7. Further Assurances. Each party hereto shall execute, acknowledge and deliver to each other party all documents, and shall take all actions reasonably required by such other party from time to time to confirm or effect the matters set forth herein, or otherwise to carry out the purposes of this Amendment.
8. Attorneys' Fees. In the event that any litigation shall be commenced concerning or arising out of this Amendment, the party prevailing in such litigation shall be

or otherwise to carry out the purposes of this Amendment.

- 8. Attorneys' Fees. In the event that any litigation shall be commenced concerning or arising out of this Amendment, the party prevailing in such litigation shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including without limitation reasonable attorneys' fees and court costs, whether or not taxable, as awarded by a court of competent jurisdiction.
- 9. No Third Parties Benefited. This Amendment is made for the purpose of setting forth certain rights and obligations of Assignee and Assignor, and no other person shall have any rights hereunder or by reason hereof as a third party beneficiary or otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Contract as of the date first above written.

CITY OF WESTMINSTER

SUCCESSOR AGENCY TO THE
WESTMINSTER REDEVELOPMENT
AGENCY

Eddie Manfro, City Manager

Eddie Manfro, Executive Director

ATTEST:

Robin L. Roberts, City Clerk/City Treasurer

Robin Roberts, Agency Secretary

Richard D. Jones, City Attorney

Richard D. Jones, Agency Counsel

GRIFFIN STRUCTURES

By: _____
Signature Title