

RESOLUTION NO. 12-06

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY'S APPROPRIATION OF PROJECT FUNDS AND THE USE OF UNSPENT MISSION BOULEVARD JOINT REDEVELOPMENT PROJECT AREA TAX ALLOCATION NOTES OF 2008 TO DEFEASE THE MISSION BOULEVARD JOINT REDEVELOPMENT PROJECT AREA TAX ALLOCATION NOTE ISSUE OF 2008 SUBJECT TO APPROVAL BY THE APPROPRIATE LOCAL AND STATE AGENCIES

WHEREAS, the Montclair Redevelopment Agency ("Agency") was a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, *et seq.* ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Montclair ("City"); and

WHEREAS, the Agency was engaged in activities necessary and appropriate to carry out the Redevelopment Plan for the Mission Boulevard Joint Redevelopment Project Area adopted by City Ordinance No. 03-836 on July 7, 2003, and adopted by County of San Bernardino Ordinance No. 3895 on July 8, 2003 (collectively, the "Redevelopment Plans"); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency undertook redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to generate employment opportunities within the community; and

WHEREAS, in pursuit of redevelopment projects to eliminate blight and improve public facilities and infrastructure, the Agency approved the Mission Boulevard Joint Redevelopment Project Area Tax Allocation Note Issue of 2008 ("Tax Allocation Notes") on June 18, 2008; and

WHEREAS, proceeds of the Tax Allocation Notes were used to complete public infrastructure improvements along the Mission Boulevard Corridor; and

WHEREAS, Tax Allocation Notes are short-term securities providing noteholders with interest-only payments for five years; and at the termination of five years the Agency anticipated it would defease the Tax Allocation Notes with the issuance of tax allocation bonds; and

WHEREAS, the Agency became concerned because the magnitude of the Great Recession did not increase property values to a degree to support the necessary issuance of refunding bonds; and

WHEREAS, the City found an alternate source of revenue to complete the final phase of the Mission Boulevard Improvement Project saving some note proceeds to assist in the defeasance principal of the Tax Allocation Notes; and

WHEREAS, in 2011, Parts 1.8 and 1.85 of Division 24 of the Health and Safety Code were added to the CRL by ABX1 26, which laws caused the dissolution and wind down of all redevelopment agencies ("Dissolution Act"); and

WHEREAS, on December 29, 2011, in the petition *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld the Dissolution Act and thereby all redevelopment agencies in California were dissolved as of and on February 1, 2012, under the dates in the Dissolution Act that were reformed and extended thereby ("Supreme Court Decision"); and

WHEREAS, the Agency is now a dissolved community redevelopment agency pursuant to the Dissolution Act; and

WHEREAS, by a Resolution considered and approved by the City Council at an open public meeting the City chose to become and serve as the "Successor Agency" to the dissolved Agency under the Dissolution Act; and

**WHEREAS**, as of and after February 1, 2012, and as the "Successor Agency," the City must perform its functions as the successor agency under the Dissolution Act to administer the enforceable obligations of the Agency and otherwise unwind the Agency's affairs, all subject to the review and approval by the Oversight Board formed thereunder; and

**WHEREAS**, the Dissolution Act provides for the issuance of bonds in certain circumstances but lacks clear authority about provisions for repayment of debt because tax increment, as a source of bond repayment, does not exist; and

**WHEREAS**, by the time the Successor Agency could obtain a validation action for bond issuance, the Tax Allocation Notes would be in a state of default; and

**WHEREAS**, in winding down former redevelopment agency activity and addressing matters of accounting, the Successor Agency determined that there would be funds available from various redevelopment project areas to address repayment of the Tax Allocation Note debt and when combined with the unspent Tax Allocation Note proceeds could be used to address repayment of the Tax Allocation Notes; and

**WHEREAS**, concerns regarding the combination of funds between project areas must be resolved between the County and San Bernardino and the State Department of Finance; and

**WHEREAS**, on May 7, 2012, the Successor Agency took action to appropriate project funds and unspent Tax Allocation Note proceeds for the purpose of defeasement of the Tax Allocation Notes.

**NOW, THEREFORE, BE IT RESOLVED** that the Oversight Board to the Successor Agency of the City of Montclair Redevelopment Agency does hereby find and determine as follows:

**Section 1.** The foregoing Recitals are incorporated into this Resolution by this reference and constitute a material part of this Resolution.

**Section 2.** The Oversight Board approves the Successor Agency's appropriation of project funds and appropriation of unspent Tax Allocation Bond proceeds from the Mission Boulevard Joint Redevelopment Project Area Tax Allocation Notes of 2008 for use to defease the Mission Boulevard Joint Redevelopment Project Area Tax Allocation Notes of 2008. Said approval of the action of the Successor Agency and this Oversight Board is subject to the approval of the County of San Bernardino and State Department of Finance.


**Section 3.** This Resolution shall be effective immediately upon adoption.

**Section 4.** The Secretary of the Oversight Board shall certify to the adoption of this Resolution.

**APPROVED AND ADOPTED** this 9th day of May, 2012.

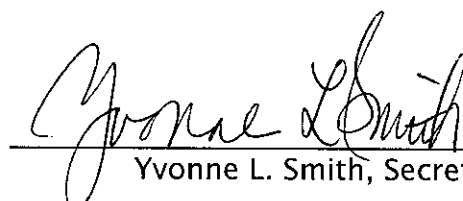
  
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Chairman

ATTEST:

  
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Secretary

I, Yvonne L. Smith, Secretary of the Oversight Board of the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 12-06 was duly adopted by the Oversight Board of Directors at a regular meeting thereof held on the 9th day of May, 2012, and that it was adopted by the following vote, to-wit:

AYES: Stallings, Richardson, Kulbeck, Erickson, Catlin, Johnson, Ruh  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
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Yvonne L. Smith, Secretary