

RESOLUTION NO. 14-04

A RESOLUTION OF OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY'S ACTION TO SEEK LEGAL COUNSEL FOR THE PURPOSE OF PURSUING LEGAL ACTION AGAINST THE DEPARTMENT OF FINANCE

WHEREAS, Assembly Bill 1X 26 (AB 26) was signed by the Governor on June 28, 2011 and upheld as constitutional by the California Supreme Court. On June 27, 2012, the Governor signed Assembly Bill 1484 (AB 1484). AB 26 and AB 1484 (together called the Dissolution Bills) eliminated California redevelopment agencies statewide, established successor agencies to pay, perform, and effectuate the enforceable obligations of the former redevelopment agencies and to wind down the affairs of the former redevelopment agencies; and

WHEREAS, the City of Montclair Redevelopment Agency ("Agency") is now a dissolved redevelopment agency pursuant to the Dissolution Bills; and

WHEREAS, by Resolution No. 12-2934 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 on and after February 1, 2012, the City serves and acts as the Successor Agency and is performing 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 a seven-member oversight board ("Oversight Board"); and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Act; and

WHEREAS, pursuant to Section 34179 of the Health and Safety Code, the Successor Agency's Oversight Board was formed and the initial meeting occurred on April 25, 2012; and

WHEREAS, as a result of Recognized Obligation Payment Schedule (ROPS) determinations by the Department of Finance (DOF), it is the position of the Successor Agency that DOF has based its decisions on a partial citation of the Health and Safety Code (Code) resulting in an arbitrary interpretation to the detriment of the City of Montclair and the Successor Agency. The Successor Agency has requested reconsideration of DOF's position by providing complete citations and discussions of the Code; however, DOF has ignored this request; and

WHEREAS, the position taken by DOF results in moneys that should be used to reimburse administrative costs being diverted to other enforceable obligation, and there are no other remedies available to the Successor Agency other than litigation; and

WHEREAS, on January 21, 2014, the Successor Agency Board approved proceeding to litigation utilizing the law firm of Best, Best & Krieger, LLP, Attorneys at Law, to serve as counsel to the Successor Agency in pursuing potential litigation. To accomplish this, Best, Best & Krieger has indicated that they could provide representation and proceed to litigation against DOF within the current ROPS period; and

WHEREAS, Section 34171(d)(1)(F) of the Code indicates that agreements concerning litigation expenses related to assets or obligations, settlements and judgements are enforceable obligations and therefore would be validly included on upcoming ROPS; and

WHEREAS, as required by the law, the Oversight Board must approve the action of the Successor Agency regarding approval of Best & Krieger, LLP, Attorneys at Law, to serve as legal counsel to the Successor Agency in pursuing this litigation; and

WHEREAS, pursuant to the Dissolution Act, the actions of the Oversight Board, including those approved by this Resolution, do not become effective for five (5) business days pending any request for review by DOF; and if DOF requests review hereof, it will have forty days from the date of its request to approve this Oversight Board action or return it to the Oversight Board for reconsideration and the action, if subject to review by DOF, would not be effective until approved by DOF.

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

Section 1. The above recitals are true and correct and are a substantive part of the Resolution.

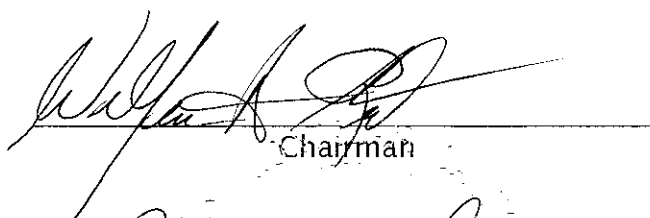
Section 2. The Successor Agency authorized at its meeting of January 21, 2014, proceeding with litigation against DOF utilizing legal counsel of Best, Best & Krieger, LLP, Attorneys at Law.

Section 3. The Oversight Board approves the contractual agreement created by the engagement letter provided by Best, Best & Krieger to the Successor Agency to provide legal counsel for purposes of litigation against DOF.

Section 4. In accordance with Section 34171(d)(1)(F) of the Health and Safety Code, the Oversight Board recognizes costs incurred in by Best, Best & Krieger, Attorneys at Law in connection with this litigation to be a valid enforceable obligation which is claimable on the Successor Agency's current and future ROPS.

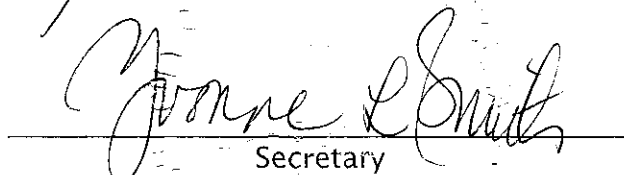
Section 5. The Secretary of the Oversight Board shall certify to the adoption of this Resolution and shall maintain this Resolution on file as a public record as approved hereby.

APPROVED AND ADOPTED this 26th day of February, 2014.



Chairman

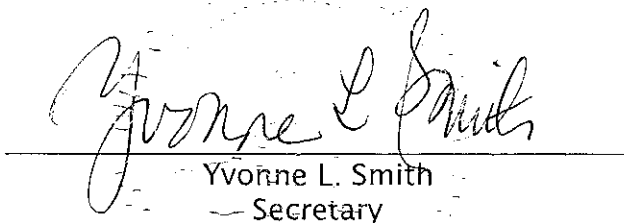
ATTEST:



Secretary

I, Yvonne L. Smith, Secretary of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 14-04 was duly adopted by the Oversight Board of Directors at a regular meeting thereof held on the 26th day of February, 2014, and that it was adopted by the following vote, to-wit:

AYES: Richardson, Piotrowski, Hillman, Catlin, Johnson, Ruh
NOES: None
ABSTAIN: None
ABSENT: Erickson



Yvonne L. Smith
Secretary