

OVERSIGHT BOARD FOR SUCCESSOR AGENCY  
TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

AGENDA

City Council Chambers  
Montclair Civic Center  
5111 Benito Street  
Montclair, CA

Special Meeting  
Wednesday, February 26, 2014  
6:00 p.m.

*As a courtesy, please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.*

William Ruh - Chairman, Montclair Mayor Paul Eaton Appointee  
Tenice Johnson - Vice Chairperson, County of San Bernardino Citizen Appointee  
Terry Catlin - Inland Empire Utilities Agency Appointee  
Kim Erickson - Chaffey Community College District Appointee  
Phil Hillman - Ontario-Montclair School District Appointee  
Mike Piotrowski - City of Montclair Employee Organization Alternate  
John Richardson - County of San Bernardino Appointee

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I. PRELIMINARY MATTERS

- A. Call to Order
- B. Roll Call

II. PUBLIC COMMENT

*Any person wishing to address the Oversight Board on any matter, whether or not it appears on this agenda, is requested to complete a "Speaker Request" form, available at the door. The form should be completed and submitted to the Secretary prior to the beginning of this meeting or prior to an individual agenda item being heard by the Oversight Board. Each speaker will be afforded five minutes to address the Oversight Board. No action will be taken on any item not listed on the agenda pursuant to the Ralph M. Brown Act.*

III. APPROVAL OF MINUTES

- A. Minutes of the Regular Oversight Board Meeting of September 11, 2013
- B. Minutes of the Regular Oversight Board Meeting of November 13, 2013

IV. BUSINESS ITEMS

- A. Consider Adoption of Resolution No. 14-01 Amending the Administrative Budget of the Successor Agency to the City of Montclair Redevelopment Agency for January 1, 2014, Through June 30, 2014, Pursuant to Health and Safety Code Section 34177(j) and Authorizing Its Transmittal to the Department of Finance 3
- B. Consider Adoption of Resolution No. 14-02, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving a Recognized Obligation Payment Schedule for July 1, 2014, Through December 31, 2014, Pursuant to California Health and Safety Code Section 34179, Division 24, Part 1.85, and Authorizing Posting and Transmittal Thereof 9
- C. Consider Adoption of Resolution No. 14-03, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving the Successor Agency's Proposed Administrative Budget for July 1, 2014, Through December 31, 2014, Pursuant to Health and Safety Code Section 34177(j) 19
- D. Consider Adoption of Resolution No. 14-04, a Resolution of the 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 24

V. COMMUNICATIONS

- A. Staff
- B. Chairman and Members

VI. ADJOURNMENT

*The above actions of the Oversight Board shall not become effective for three business days, pending any request for review by DOF. If DOF requests review of the above Board actions, it will have ten days from the date of the request to approve the Oversight Board action or return it to the Oversight Board for reconsideration; and the action, if subject to review by DOF, will not be effective until approved by DOF.*

*The next regularly scheduled Oversight Board meeting will be held on March 12, 2014, at 6:00 p.m. in the City Council Chambers.*

*Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Successor Agency Board after distribution of the Agenda packet are available for public inspection in the Office of the Secretary located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.*

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Secretary at (909) 625-9416. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)*

*I, Yvonne L. Smith, Secretary, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall on February 20, 2014.*

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 14-01 AMENDING THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY FOR JANUARY 1, 2014, THROUGH JUNE 30, 2014, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34177(j) AND AUTHORIZING ITS TRANSMITTAL TO THE DEPARTMENT OF FINANCE	<b>DATE:</b> February 26, 2014
	<b>SECTION:</b> BUSINESS ITEMS
	<b>ITEM NO.:</b> A
	<b>FILE I.D.:</b> OBO050
	<b>DEPT.:</b> OVERSIGHT BOARD

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**REASON FOR CONSIDERATION:** The January 1, 2014, through June 30, 2014 Administrative Budget, originally adopted by Resolution No. 13-09 on September 11, 2013, allowed for costs originally included for preparation of the Long-Range Property Management Plan and preparation of bond indenture financial disclosure statements to be classified as enforceable obligations. This will allow those obligations to be payable from taxes allocated to the Redevelopment Property Tax Trust Fund (RPTTF).

**BACKGROUND:** In the Successor Agency's Recognized Obligation Payment Schedule 13-14B filing, the Department of Finance (DOF) was asked to consider the Successor Agency's request to reclassify administrative costs for preparation of the Long-Range Property Management Plan and for preparation of financial reporting required by bond indentures.

This request was made because DOF indicated in a Question & Answer document that these costs were appropriate for RPTTF funding. That information was transmitted by DOF to Successor Agencies without sufficient time to allow for it to be reflected in ROPS 13-14B or the Successor Agency's Administrative Budget. Therefore, a request to accomplish this had to be made through the meet and confer process.

That request was rejected by DOF with the indication that these costs were not identified in the Successor Agency's Administrative Budget. DOF indicated "the administrative budget provided by the Agency does not identify any such costs" and thus denied the Successor Agency's request to have the funding sources for these costs reclassified from administrative allowance to an allocation of RPTTF funding.

The Agency now is preparing ROPS 14-15A and is claiming on that report the costs that were previously disallowed.

In order to provide support for these costs and to invalidate the reasoning for DOF's disallowance of them, the Administrative Cost budget of the Successor Agency has been amended to specifically indicate that costs associated with preparation of the LRPMP were to be performed by City staff under the reimbursement agreement with the City of Montclair and additional costs for bond disclosure were also present. As such, these costs would qualify as enforceable obligations payable from RPTTF sources. The amended Administrative Cost budget would support the Successor Agency's request to reimburse such costs from current property taxes.

**FISCAL IMPACT:** Approval of this amended budget would allow for supporting documentation to be provided to DOF that it is hoped would result in approval to reimburse the City of Montclair for costs in the amount of \$86,319.

**RECOMMENDATION:** Staff recommends the Oversight Board adopt Resolution 14-01 amending the Administrative Budget of the Successor Agency to the City of Montclair Redevelopment Agency for January 1, 2014, through June 30, 2014, pursuant to California Health and Safety Code Section 34177(j) and authorizing its transmittal to the Department of Finance.

**RESOLUTION NO. 14-01**

**A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AMENDING THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY FOR JANUARY 1, 2014, THROUGH JUNE 30, 2014, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34177(j) AND AUTHORIZING ITS TRANSMITTAL TO THE DEPARTMENT OF FINANCE**

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

**WHEREAS**, Assembly Bill X1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which laws cause 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; and

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

**WHEREAS**, by 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 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 of the Dissolution Act provides that the Successor Agency shall have an Oversight Board composed of seven members; 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**, the State Legislature passed and the Governor signed AB 1484 into State law on June 29, 2012; and

**WHEREAS**, AB 1484 establishes a schedule for adoption of the Recognized Obligation Payment Schedules; and

**WHEREAS**, The Successor Agency originally approved its Administrative Budget for the period January 1, 2014, through June 30, 2014 by Resolution 13-09 dated September 11, 2013, and pursuant to Section 34177(j), the Successor Agency's "Administrative Budget" included all of the following: (a) estimated amounts of the Successor Agency's administrative costs for the upcoming six month fiscal period; (b) the proposed sources of payment for the costs identified in (a); and (c) proposals for arrangements for administrative and operations services provided by the city serving as Successor Agency; and

**WHEREAS**, included within that Administrative Budget was the process associated with preparation of the Long Range Property Management Plan (LRPMP) and it was thought that it would be done by an outside consultant (Kosmont Companies); however, subsequently it was determined that it would be more beneficial to prepare the LRPMP utilizing experienced City of Montclair staff; and

**WHEREAS**, subsequent to the approval of that Administrative Budget, the State Department of Finance ("DOF") issued guidance indicating that costs associated with the preparation of the LRPMP is a valid uses of property tax monies and would not be part of the administrative allowance. Additionally, recent reviews by DOF have indicated that separation of administrative costs into those that relate to the administrative allowance and those that are to be claimed as separate enforceable obligations is required; and

**WHEREAS**, the Successor Agency's proposed Amended Administrative Budget for the period January 1, 2014, through June 30, 2014, indicating that LRPMP costs are to be performed by City of Montclair staff and containing the breakdown of these between administrative allowance and enforceable obligations, has been submitted to the Oversight Board for its review and approval; and

**WHEREAS**, the Amended Administrative Budget, as approved by the Oversight Board, will be provided to the County of San Bernardino Auditor-Controller pursuant to Section 34177(k) so that the Successor Agency's estimated administrative costs in the approved Administrative Budget will be paid from property tax revenues deposited into the Redevelopment Property Tax Trust Fund for the six-month period from January 1, 2014 through June 30, 2014; and

**WHEREAS**, the Oversight Board desires to approve the Successor Agency's proposed Amended Administrative Budget; 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, DOF will have 45 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, will 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 foregoing recitals are incorporated into this Resolution by reference, and constitute a material part of this Resolution.

**Section 2.** Pursuant to the Dissolution Act, the Oversight Board approves the Successor Agency's proposed Amended Administrative Budget, attached hereto as Attachment No. 1 and incorporated by this reference.

**Section 3.** The Oversight Board authorizes the Successor Agency to transmit the Amended Administrative Budget and Cost Reimbursement Agreement when/if approved and entered into between the City and the Successor Agency to the County Auditor-Controller, the State Department of Finance (DOF), and the State Controller's Office.

**Section 4.** This Resolution shall become effective after transmittal of this Resolution with the ROPS attached to DOF and the expiration of five (5) business days pending a request for the review of DOF within the time periods set forth in the Dissolution Act; in this regard, if DOF requests review hereof, it will have 45 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.

**Section 5.** The Secretary of the Oversight Board shall certify to the adoption of this Resolution

**APPROVED AND ADOPTED** this XX day of XX, 2014.

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Chairman

**ATTEST:**

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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. 14-01 was duly adopted by the Oversight Board of Directors at a regular meeting thereof held on the XX day of XX, 2014, and that it was adopted by the following vote, to-wit:

AYES: XX  
NOES: XX  
ABSTAIN: XX  
ABSENT: XX

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Yvonne L. Smith  
Secretary

Attachment No. 1

**Successor Agency for the Redevelopment Agency of the City of Montclair**  
**Amended Administrative Budget**  
**January 1 to June 30, 2014**

Approved by Oversight Board on: \_\_\_\_\_

<b>Staff Costs</b>	<b>% of Staff Time</b>	<b>Six Month Amount</b>
City Manager	30.0%	47,745
Deputy City Manager	7.0%	7,924
Finance Director	23.5%	21,384
Finance Supervisor	25.0%	11,537
Accountant	50.0%	19,445
Office Specialist	15.0%	5,087
Deputy City Clerk	25.0%	10,117
Indirect Staff Charges		21,000
<b>Sub-Total</b>		<b>144,239</b>

<b>Administrative Costs</b>	
Utilities (Electric, Water, Gas, Telephone)	15,700
Retiree Pension Costs	17,241
Office Supplies/Postage	200
First Tennessee Bank Safekeeping	700
<b>Sub-Total</b>	<b>33,841</b>

<b>Insurance Costs</b>	
Public Employee Bond	1,000
General Liability	3,630
Fire Insurance	880
Earthquake	4,626
<b>Sub-Total</b>	<b>10,136</b>

<b>Legal Costs</b>	
Robbins & Holdaway	500
Stradling, Yocca, Carlson, & Rauth	1,000
<b>Sub-Total</b>	<b>1,500</b>

**TOTAL SIX MONTH ROPS AMINISTRATIVE ALLOWANCE COSTS** **189,716**

**Enforceable Obligations**

<b>Staff Costs</b>	<b>Six Month Amount</b>
<b>Long Range Property Management Costs (Per DOF Q &amp; A Guidance)</b>	
Deputy City Manager	71,319
<b>Sub-Total</b>	<b>71,319</b>

<b>Bond Indenture Financial Statement Preparation</b>	
Finance Director	15,000
<b>Sub-Total</b>	<b>15,000</b>

**TOTAL SIX MONTH ROPS ENFORCABLE OBLIGATION COSTS** **86,319**

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 14-02, A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JULY 1, 2014, THROUGH DECEMBER 31, 2014, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34179, DIVISION 24, PART 1.85, AND AUTHORIZING POSTING AND TRANSMITTAL THEREOF	<b>DATE:</b> February 26, 2014
	<b>SECTION:</b> BUSINESS ITEMS
	<b>ITEM NO.:</b> B
	<b>FILE I.D.:</b> OBO050
	<b>DEPT.:</b> OVERSIGHT BOARD

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**REASON FOR CONSIDERATION:** Pursuant to Section 34177 of the Health and Safety Code, the Successor Agency is required to submit its Recognized Obligation Payment Schedule (ROPS) to the Oversight Board for consideration and approval. With the adoption of AB 1484, the State Legislature changed the dates for submittal of the ROPS. An Oversight Board-approved ROPS for the period from July 1, 2014, through December 31, 2014, must be sent to the Department of Finance (DOF) and County Auditor-Controller no fewer than 90 days before the date of property tax distribution. A penalty of \$10,000 per day for each day the ROPS is delinquent was added to the Health and Safety Code pursuant to AB 1484.

A copy of proposed Resolution No. 14-02 approving ROPS 14-15A is attached for the Oversight Board's review and consideration.

**BACKGROUND:** The California Supreme Court's decision in *California Redevelopment Association, et. al., v. Matosantos* upheld AB X1 26, the Dissolution Act. The Dissolution Act has caused the dissolution of all California redevelopment agencies. On January 12, 2012, the City of Montclair City Council elected to become and serve as the Successor Agency to the City's dissolved redevelopment agency. The City 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 review and approval by the seven-member Oversight Board.

As part of the Dissolution Act as reformed by the Supreme Court, each Successor Agency was to adopt a draft Recognized Obligation Payment Schedule (ROPS) before March 1, 2012. The ROPS, as defined by the Dissolution Act, means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period. As the Oversight Board knows, the initial ROPS was provided to the County and State on April 15, 2012. The Oversight Board took action to approve the initial ROPS on April 25, 2012. The Oversight Board took action to approve the ROPS for July 1, 2012, through December 31, 2012, on May 9, 2012. The ROPS for January 1, 2013, through June 30, 2013, was approved by the Oversight Board on August 21, 2012. The ROPS for the period from July 1, 2013, through December 31, 2013, was approved by the Oversight Board on February 27, 2013. Finally, the Oversight Board approved the ROPS for January 1, 2014, through June 30, 2014, on September 11, 2013.

On February 18, 2014, the Governor signed AB 471 as urgency legislation so it is effective immediately. This legislation specified that Housing Authorities could receive a "housing administrative cost allowance." This allowance is to be up to 1 percent of the property taxes allocated to the RORF (Redevelopment Obligation Retirement Fund) but not less than \$150,000 per fiscal year. The Montclair Housing Authority would qualify for the prescribed minimum of \$150,000. The Montclair Housing Authority is the successor housing entity and administers the low- and moderate-income properties that were held by the former redevelopment agency. Up to this point, it has not received any administrative allowance. In order to claim this amount, it must be included on a ROPS; therefore, the minimum allocation amount of \$150,000 due to the Montclair Housing Authority has been included on ROPS 14-15A attached to proposed Resolution No. 14-02.

With the date of March 1, 2014, as the deadline for submittal of the ROPS for July 1, 2014, through December 31, 2014, staff is requesting the Oversight Board consider approval of the ROPS submitted for this period by adoption of proposed Resolution No. 14-02.

**FISCAL IMPACT:** The Oversight Board's approval of proposed ROPS 14-15A would authorize the repayment of former City of Montclair Redevelopment Agency obligations. Oversight Board approval of the ROPS would also allow the City of Montclair to recover administrative costs related to dissolution activities. Approval of the ROPS by the Oversight Board would be subject to review as to accuracy by an auditor designated by the County Auditor-Controller's Office. In addition, all actions of the Oversight Board do not become effective for five business days, pending review by the Department of Finance.

**RECOMMENDATION:** Staff recommends the Oversight Board adopt Resolution No. 14-02, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency approving a Recognized Obligation Payment Schedule for July 1, 2014, through December 31, 2014, pursuant to California Health and Safety Code Section 34179, Division 24, Part 1.85, and authorizing posting and transmittal thereof.

**RESOLUTION NO. 14-02**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY ADOPTING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JULY 1, 2014, THROUGH DECEMBER 31, 2014, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34179, DIVISION 24, PART 1.85, AND AUTHORIZING POSTING AND TRANSMITTAL THEREOF**

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

**WHEREAS**, Assembly Bill X1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which laws cause 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; and

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

**WHEREAS**, by 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 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, the Successor Agency's Oversight Board has been formed and the initial meeting has occurred on April 25, 2012; and

**WHEREAS**, the State Legislature approved and the Governor signed AB 1484 on June 29, 2012; and

**WHEREAS**, AB 1484 changed the date for submittal of the ROPS to no fewer than 90 days before the date of property tax distribution and included a \$10,000 per day fine for each day the ROPS is delinquent; and

**WHEREAS**, the ROPS for July 1, 2014, through December 31, 2014, must be submitted to the County and State by March 1, 2014; and

**WHEREAS**, the Oversight Board is requested to adopt the ROPS for July 1, 2014, through December 31, 2014, on February 26, 2014, and to authorize the Successor Agency to post the ROPS on the City/Successor Agency website and transmitted the ROPS to the County Auditor–Controller, the State Department of Finance ("DOF"), and the State Controller's Office; 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, DOF will have 45 days from the date of its request to approve this Oversight Board action.

**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 Oversight Board finds and determines that the foregoing recitals incorporated into this Resolution by this reference are true and correct and constitute a material part of this Resolution.

**Section 2.** The Oversight Board approves the ROPS for the period of July 1, 2014, through December 31, 2014.

**Section 3.** The Oversight Board authorizes the Successor Agency to transmit the ROPS to the County Auditor–Controller, DOF, and the State Controller's Office.

**Section 4.** The Secretary of the Successor Agency or her authorized designee is directed to post the ROPS on the City/Successor Agency website pursuant to the Dissolution Act.

**Section 5.** This Resolution shall become effective after transmittal of this Resolution with the ROPS attached to DOF and the expiration of five (5) business days pending a request for the review of DOF within the time periods set forth in the Dissolution Act; in this regard, if DOF requests review hereof, it will have ten 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.

**Section 6.** 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 and the ROPS as approved hereby.

**APPROVED AND ADOPTED** this XX day of XX, 2014.

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Chairman

**ATTEST:**

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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. 14-02 was duly adopted by the Oversight Board of Directors at a regular meeting thereof held on the XX day of XX, 2014, and that it was adopted by the following vote, to-wit:

AYES: XX  
NOES: XX  
ABSTAIN: XX  
ABSENT: XX

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Yvonne L. Smith  
Secretary

**Recognized Obligation Payment Schedule (ROPS 14-15A) - Summary**

Filed for the July 1, 2014 through December 31, 2014 Period

Name of Successor Agency: Montclair  
 Name of County: San Bernardino

		Six-Month Total
<b>Current Period Requested Funding for Outstanding Debt or Obligation</b>		
<b>Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding</b>		
<b>A</b>	<b>Sources (B+C+D):</b>	
B	Bond Proceeds Funding (ROPS Detail)	\$ 2,573,062
C	Reserve Balance Funding (ROPS Detail)	2,573,062
D	Other Funding (ROPS Detail)	-
<b>E</b>	<b>Enforceable Obligations Funded with RPTTF Funding (F+G):</b>	<b>\$ 512,210</b>
F	Non-Administrative Costs (ROPS Detail)	387,210
G	Administrative Costs (ROPS Detail)	125,000
<b>H</b>	<b>Current Period Enforceable Obligations (A+E):</b>	<b>\$ 3,085,272</b>

<b>Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding</b>		
I	Enforceable Obligations funded with RPTTF (E):	512,210
J	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	(98,223)
<b>K</b>	<b>Adjusted Current Period RPTTF Requested Funding (I-J)</b>	<b>\$ 413,987</b>

<b>County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding</b>		
L	Enforceable Obligations funded with RPTTF (E):	512,210
M	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
<b>N</b>	<b>Adjusted Current Period RPTTF Requested Funding (L-M)</b>	<b>512,210</b>

Certification of Oversight Board Chairman:  
 Pursuant to Section 34177(m) of the Health and Safety code, I  
 hereby certify that the above is a true and accurate Recognized  
 Obligation Payment Schedule for the above named agency.

Bill Ruh  
 Name  
 Title  
 Chairman  
 /s/ \_\_\_\_\_  
 Signature  
 Date

**Recognized Obligation Payment Schedule (ROPS) 14-15A - ROPS Detail**  
 July 1, 2014 through December 31, 2014  
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M			N	O	P
												Funding Source					
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Reliefed	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total		
1	1997 Taxable Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	1/11/1997	10/1/2021	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 1	\$ 97,870,167	N	\$ -	22,560	\$ -	\$ -	\$ -	\$ 22,560		
2	2007A Tax Allocation Refunding Bonds	Bonds Issued On or Before 12/31/10	9/27/2007	9/1/2035	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 3	38,846,989	N	\$ -	1,067,563	\$ -	\$ -	\$ -	\$ 1,067,563		
3	2007B Taxable Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	9/27/2007	9/1/2027	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 3	4,129,240	N	\$ -	217,898	\$ -	\$ -	\$ -	\$ 217,898		
4	2004 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	2/23/2004	10/1/2031	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 4	6,543,750	N	\$ -	263,000	\$ -	\$ -	\$ -	\$ 263,000		
5	2001 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	7/6/2001	10/1/2030	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 5	12,786,320	N	\$ -	545,355	\$ -	\$ -	\$ -	\$ 545,355		
6	2006A Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	6/16/2006	10/1/2033	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 5	10,687,566	N	\$ -	378,766	\$ -	\$ -	\$ -	\$ 378,766		
7	2006B Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	6/16/2006	10/1/2033	Bank of New York Mellon	Bond issue to Fund Non-Housing Projects	Project Area 5	6,741,688	N	\$ -	77,900	\$ -	\$ -	\$ -	\$ 77,900		
10	Contract for Legal Services	Legal	12/9/1981	6/30/2014	Stradling, Yocca, Carlson & Raulf	Bond Counsel Legal Services	All Areas	8,000	N	\$ -	\$ -	\$ -	8,000	\$ -	\$ 8,000		
12	Contract for Bond Trustee Service	Professional Services	12/9/1981	6/30/2014	Bank of New York Mellon	Annual Bond Trustee Fees/Costs	All Areas	15,000	N	\$ -	\$ -	\$ -	15,000	\$ -	\$ 15,000		
14	Contract for Bond Services	Professional Services	12/9/1981	6/30/2014	Bondlogix LLC	Bond Continuing Disclosure Services	All Areas	10,000	N	\$ -	\$ -	\$ -	10,000	\$ -	\$ 10,000		
15	Contract for Bond Services	Professional Services	12/9/1981	6/30/2014	Bondlogix LLC	Bond Arbitrage Rebate Calculation	All Areas	12,000	N	\$ -	\$ -	\$ -	12,000	\$ -	\$ 12,000		
39	Contract for Appraisal Services	Project Management Costs	1/1/2014	6/30/2014	Integra Ellis	Continuing Appraisals of Assets for Long Range Property Management Plan	All Areas	12,000	N	\$ -	\$ -	\$ -	12,000	\$ -	\$ 12,000		
42	Public facility, infrastructure and economic development obligations	Improvement/Infrastructure	6/3/2012	6/30/2014	To be Determined	Utilization of pre 2011 unspent bond proceeds	All Areas	14,160,844	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
43	Administrative Cost Reimbursement Agreement	Admin Costs	6/3/2012	6/30/2014	City of Montclair	Administrative Reimbursement Agreement No. 12-48	All Areas	5,900,000	N	\$ -	\$ -	\$ -	125,000	\$ -	\$ 125,000		
45	Long Range Property Management Plan Administration	Project Management Costs	6/3/2012	6/30/2014	City of Montclair	Administrative Reimbursement Agreement No. 12-48	All Areas	79,343	N	\$ -	\$ -	\$ -	79,343	\$ -	\$ 79,343		
46	Bond Indenture Reporting Requirements	Bonds Issued On or Before 12/31/10	6/3/2012	6/30/2014	City of Montclair	Administrative Reimbursement Agreement No. 12-49	All Areas	4,548	N	\$ -	\$ -	\$ -	4,548	\$ -	\$ 4,548		
47	Long Range Property Management Plan Preparation	Professional Services	6/3/2012	6/30/2014	City of Montclair	Prior unpaid LRP/MP Costs - Unpaid Administrative Reimbursement Agreement No. 12-49	All Areas	71,319	N	\$ -	\$ -	\$ -	71,319	\$ -	\$ 71,319		
48	Bond Indenture Reporting Requirements	Professional Services	6/3/2012	6/30/2014	City of Montclair	Prior unpaid Bond Disclosure Financial Stmt. Costs - Unpaid Administrative Reimbursement Agreement No. 12-49	All Areas	15,000	N	\$ -	\$ -	\$ -	15,000	\$ -	\$ 15,000		
49	City of Montclair as Successor Agency for City of Montclair Redevelopment Agency vs. Department of Finance, et al	Litigation	6/3/2012	6/30/2036	Best Best & Kieffer LLP	Legal services related to litigation	All Areas	80,000	N	\$ -	\$ -	\$ -	10,000	\$ -	\$ 10,000		
50	Montclair Housing Authority - Housing Entity Administrative Cost Allowance	Miscellaneous	2/18/2014	7/1/2018	Montclair Housing Authority Successor Housing Entity	Administrative costs in connection with low and moderate income properties	All Areas	750,000	N	\$ -	\$ -	\$ -	150,000	\$ -	\$ 150,000		

**Recognized Obligation Payment Schedule (ROPS) 14-15A - Report of Cash Balances**  
(Report Amounts in Whole Dollars)

A	B	C	D	E	Fund Sources			H	I
					F	G	H		
Pursuant to Health and Safety Code section 34177(i), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.									
Cash Balance Information by ROPS Period									
		Bond Proceeds	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR balances related	Reserve Balance	Prior ROPS RPTTF distributed as reserve for next bond payment	Other	RPTTF	Comments
<b>ROPS 13-14A Actuals (07/01/13 - 12/31/13)</b>									
1	Beginning Available Cash Balance (Actual 07/01/13) Note that for the RPTTF, 1 + 2 should tie to columns J and O in the Report of Prior Period Adjustments (PPAs)	17,650,961		129,171				2,935,783	Column C - Balance of bond proceeds represents \$13,727,784 of pre 2011 proceeds for projects and \$3,963,777 of trustee held restricted amounts. Column H - RPTTF amount (\$2,935,783), received in June 2013, is on line 1 not here as that would duplicate amount. \$3,689,928 received 12/31/13 from SB County. Column C - \$2,550,283 is RPTTF receipts received June 2013 transmitted July 2013 to trustee. Column H - Expenditures of \$2,837,560 include \$2,550,283 transferred to trustee so part of revenue of Column C on Line 2.
2	Revenue/Income (Actual 12/31/13) Note that the RPTTF amounts should tie to the ROPS 13-14A distribution from the County Auditor-Controller during June 2013 SEE GENERAL COMMENT AT TOP OF COMMENT SECTION							3,689,928	
3	Expenditures for ROPS 13-14A Enforceable Obligations (Actual 12/31/13) Note that for the RPTTF, 3 + 4 should tie to columns L and Q in the Report of PPAs	2,628,121						2,837,560	
4	Retention of Available Cash Balance (Actual 12/31/13) Note that the RPTTF amount should only include the retention of reserves for debt service approved in ROPS 13-14A	2,550,283							
5	ROPS 13-14A RPTTF Prior Period Adjustment Note that the RPTTF amount should tie to column S in the Report of PPAs.								
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ 17,766,799	\$ -	\$ 129,171	\$ -	\$ -	\$ -	\$ 3,689,928	Column H - Since Prior Period Adjustment amount is deducted the ending cash balances do not agree with financial records. Line 7 Beginning Balance do agree. Column C - Balance of bond proceeds represents \$13,803,022 of pre 2011 proceeds for projects and \$3,963,777 of trustee held restricted amounts.
<b>ROPS 13-14B Estimate (01/01/14 - 06/30/14)</b>									
7	Beginning Available Cash Balance (Actual 01/01/14) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ 17,766,799	\$ -	\$ 129,171	\$ -	\$ -	\$ -	\$ 3,788,151	Column C - Transfers to trustee of RPTTF (\$3,689,928) and Reserves (\$91,196). Column F - Debt service from 7/2014 - 12/2014 sent to trustee. Column H - ROPS distribution is above as received 12/31/2013.
8	Revenue/Income (Estimate 06/30/14) Note that the RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014 (Unable to agree as County of San Bernardino distributed 12/31/13 so included in prior section)	3,781,124				2,573,062			Column E - \$91,196 used for bond debt service and remainder to be used on obligations as per DOF determination. Column H - Entire ROPS allocation sent to trustee and second half of year will be on hand to make payment. Column C - This is the reserve amount approved in ROPS 13-14B which will be on hand at June 30, 2014 and used in the next period to pay debt service.
9	Expenditures for 13-14B Enforceable Obligations (Estimate 06/30/14)								
10	Retention of Available Cash Balance (Estimate 06/30/14) Note that the RPTTF amounts may include the retention of reserves for debt service approved in ROPS 13-14B	1,208,062		129,196				3,689,928	
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ 17,766,799	\$ -	\$ (25)	\$ 2,573,062	\$ -	\$ -	\$ 88,223	Column C - Balance of bond proceeds represents \$13,803,022 of pre 2011 proceeds for projects and \$3,963,777 of trustee held restricted amounts.





## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 14-03, A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY'S PROPOSED ADMINISTRATIVE BUDGET FOR JULY 1, 2014, THROUGH DECEMBER 31, 2014, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34177(j)	<b>DATE:</b> February 26, 2014 <b>SECTION:</b> BUSINESS ITEMS <b>ITEM NO.:</b> C <b>FILE I.D.:</b> OBO050 <b>DEPT.:</b> OVERSIGHT BOARD
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**REASON FOR CONSIDERATION:** Section 34177(j) of the California Health and Safety Code related to the dissolution of redevelopment agencies requires that a successor agency "prepare a proposed administrative budget and submit it to the oversight board for its approval." The proposed Successor Agency's Administrative Budget for July 1, 2014, through December 31, 2014, has been prepared for consideration by the Oversight Board and is attached to Resolution No. 14-03.

**BACKGROUND:** The Oversight Board approved an Administrative Budget for the period from February 1, 2012, through June 30, 2012, on April 25, 2012. The Oversight Board approved the Administrative Budget for the period from July 1, 2012, through December 31, 2012, on June 13, 2012. The Administrative Budget for the period from January 1, 2013, through June 30, 2013, was approved by the Oversight Board on August 27, 2012. On February 27, 2013, the Oversight Board approved the Administrative Budget for July 1, 2013, through December 31, 2013. The Administrative Budget for the period from January 1, 2014, through June 30, 2014, was approved by the Oversight Board on September 11, 2013. The Oversight Board is requested to consider adoption of Resolution No. 14-03 approving the Administrative Budget for July 1, 2014, through December 31, 2014.

The Administrative Budget proposes that the Successor Agency would receive approximately \$125,000 from the Redevelopment Property Tax Trust Fund for administrative expenses. During the period from July 1, 2014, through December 31, 2014, staff anticipates spending time dealing with the actual disposition of former Redevelopment Agency assets.

Pursuant to the California Health and Safety Code and upon approval of the Oversight Board, the Successor Agency will provide the administrative cost estimates to the County of San Bernardino that are to be paid from property tax trust fund revenues deposited into the Redevelopment Property Tax Trust Fund for the period from July 1, 2014, through December 31, 2014.

**FISCAL IMPACT:** The Oversight Board's approval of the Administrative Budget would allow the Successor Agency to be reimbursed for the administrative costs related to dissolution activities.

**RECOMMENDATION:** Staff recommends the Oversight Board adopt Resolution No. 14-03, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency approving the Successor Agency's proposed Administrative Budget for July 1, 2014, through December 31, 2014, pursuant to California Health and Safety Code Section 34177(j).

**RESOLUTION NO. 14-03**

**A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY'S PROPOSED ADMINISTRATIVE BUDGET FOR JULY 1, 2014, THROUGH DECEMBER 31, 2014, PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34177(j)**

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

**WHEREAS**, Assembly Bill X1 26 added Parts 1.8 and 1.85 to Division 24 of the California Health and Safety Code, which laws cause 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; and

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

**WHEREAS**, by 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 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 of the Dissolution Act provides that the Successor Agency shall have an Oversight Board composed of seven members; 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**, the State Legislature passed and the Governor signed AB 1484 into State law on June 29, 2012; and

**WHEREAS**, AB 1484 establishes a schedule for adoption of the Recognized Obligation Payment Schedules; and

**WHEREAS**, pursuant to Section 34177(j), the Successor Agency's "Administrative Budget" is to include all of the following: (a) estimated amounts of the Successor Agency's administrative costs for the upcoming six-month fiscal period; (b) the proposed sources of payment for the costs identified in (a); and (c) proposals for arrangements for administrative and operations services provided by the city serving as Successor Agency; and

**WHEREAS**, the Successor Agency's proposed Administrative Budget has been submitted to the Oversight Board for its review and approval; and

**WHEREAS**, the Administrative Budget, as approved by the Oversight Board, will be provided to the County of San Bernardino Auditor-Controller pursuant to Section 34177(k) so that the Successor Agency's estimated administrative costs in the approved Administrative Budget will be paid from property tax revenues deposited into the Redevelopment Property Tax Trust Fund for the six-month period from July 1, 2014, through December 31, 2014; and

**WHEREAS**, the Oversight Board desires to approve the Successor Agency's proposed Administrative Budget; 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 the DOF; and if the DOF requests review hereof, DOF will have 45 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, will 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 foregoing recitals are incorporated into this Resolution by reference, and constitute a material part of this Resolution.

**Section 2.** Pursuant to the Dissolution Act, the Oversight Board approves the Successor Agency's proposed Administrative Budget, attached hereto as Attachment No. 1 and incorporated by this reference.

**Section 3.** The Oversight Board authorizes the Successor Agency to transmit the Administrative Budget and Cost Reimbursement Agreement when/if approved and entered into between the City and the Successor Agency, to the County Auditor-Controller, the State Department of Finance ("DOF"), and the State Controller's Office.

**Section 4.** This Resolution shall be become effective after transmittal of this Resolution with the ROPS attached to the DOF and the expiration of five (5) business days pending a request for the review of the DOF within the time periods set forth in the Dissolution Act; in this regard, if the DOF requests review hereof it will have 45 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, will not be effective until approved by the DOF.

**Section 5.** The Secretary of the Oversight Board shall certify to the adoption of this Resolution

**APPROVED AND ADOPTED** this XX day of XX, 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. 14-03 was duly adopted by the Oversight Board of Directors at a regular meeting thereof held on the XX day of XX, 2014, and that it was adopted by the following vote, to-wit:

AYES: XX  
NOES: XX  
ABSTAIN: XX  
ABSENT: XX

\_\_\_\_\_  
Yvonne L. Smith  
Secretary

**Successor Agency for the Redevelopment Agency of the City of Montclair  
Administrative Budget  
July 1 to December 31, 2014**

Approved by Oversight Board on \_\_\_\_\_

**Administrative Allowance**

<b>Staff Costs</b>	<b>% of Staff Time</b>	<b>Six Month Amount</b>
City Manager	5.0%	7,957
Deputy City Manager	40.0%	45,282
Finance Director	15.0%	13,644
Finance Supervisor	5.0%	2,307
Accountant	10.0%	3,889
Office Specialist	5.0%	1,696
Deputy City Clerk	20.0%	8,094
<b>Sub-Total</b>		<b>82,869</b>
<b>Administrative Costs</b>		
Utilities (Electric, Water, Gas, Telephone)		4,000
Retiree Pension Costs		17,241
Office Supplies/Postage		200
First Tennessee Bank Safekeeping		700
<b>Sub-Total</b>		<b>22,141</b>
<b>Insurance Costs</b>		
Share of City liability insurance, public employee bonds, etc.		5,000
<b>Sub-Total</b>		<b>5,000</b>
<b>Legal Costs</b>		
Robbins & Holdaway		2,000
Stradling, Yocca, Carlson, & Rauth		3,000
Edward Z. Kotkin		5,000
<b>Sub-Total</b>		<b>10,000</b>
<b>Unallocated</b>		
Unallocated administration to fund overages in other categories		4,990
<b>Sub-Total</b>		<b>4,990</b>
<b>TOTAL SIX MONTH ROPS AMINISTRATIVE ALLOWANCE COSTS</b>		<b>125,000</b>

**Enforceable Obligations**

<b>Staff Costs</b>	<b>% of Staff Time</b>	<b>Six Month Amount</b>
<b>Long Range Property Management Costs</b>		
Deputy City Manager	50.0%	56,603
Finance Director	25.0%	22,740
<b>Sub-Total</b>		<b>79,343</b>
<b>Bond Indenture Financial Statement Preparation</b>		
Finance Director	5.0%	4,548
<b>Sub-Total</b>		<b>4,548</b>
<b>TOTAL SIX MONTH ROPS ENFORCABLE OBLIGATION COSTS</b>		<b>83,891</b>

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 14-04, A RESOLUTION OF THE 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	<b>DATE:</b> February 26, 2014 <b>SECTION:</b> BUSINESS ITEMS <b>ITEM NO.:</b> D <b>FILE I.D.:</b> OBO050 <b>DEPT.:</b> OVERSIGHT BOARD
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**REASON FOR CONSIDERATION:** The Oversight Board is requested to consider approval of the Successor Agency's action to engage legal counsel to handle litigation against the California Department of Finance (DOF) and authorization to include such costs on the current and future Recognized Obligation Payment Schedules.

**BACKGROUND:** On Recognized Obligation Payment Schedule (ROPS) 13-14B, the Successor Agency claimed administrative costs exceeding the general \$250,000 allowance by \$211,535 [\$129,196 payable from Reserve funding and \$82,339 payable from Redevelopment Property Tax Trust Fund (RPTTF) funding]. DOF cited Health and Safety Code Section 34171(b) as limiting administrative costs to a \$250,000 cap, and the additional costs were denied. In the determination, Section 34171(b) was cited as the basis for a "cap" on administrative costs. However, nowhere in AB 1484 is it stated that there is an absolute "cap" on the total administrative costs that a successor agency may incur. Additionally, in the determination letter, that section was not completely cited. That section also states "However, the allowance amount shall exclude, and shall not apply to, any administrative costs that can be paid from bond proceeds or from sources other than property tax." Therefore, to completely disallow \$211,535 of Oversight Board-approved administrative costs because of a perceived "cap" on total administrative costs is arbitrary on DOF's part. Additionally, no consideration was given to Section 34173(h), which states that a city may lend or grant funds to a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion; and an enforceable obligation shall be deemed to be created for the repayment of those loans.

Also, in ROPS 13-14B, the Successor Agency requested \$86,319 of the costs claimed as general administration be moved to the RPTTF category. This was necessary in response to the determination above and because specific guidance was issued by DOF allowing it, which was released one week before the due date. Therefore, that guidance was not available when ROPS 13-14B or the Administrative Budget was prepared. The items requested for reclassification were for staff time spent in the preparation of the Long Range Property Management Plan (LRPMP) and for preparation of bond indenture-required financial disclosure information. This request was also denied by DOF citing that it was not present in the approved Administrative Budget; however, that was not possible as it was received after the Administrative Budget was prepared and approved.

As indicated above, the Successor Agency indicated in ROPS 13-14B that the claimed administrative costs were to be funded from reserves. Reserves (fund balances) are

accumulations of resources and cannot be specifically identified as to what sources or uses they resulted from. Again, DOF cited the administrative allowance specified by Section 34171(b) and redirected reserves present to be utilized to pay other enforceable obligations. Again, it is staff's position that Section 34171(b) was not completely cited or considered. That section states the administrative allowance amount shall exclude, and shall not apply to, any administrative costs that can be paid from bond proceeds or from sources other than property tax. This section allows administrative costs to be funded by reserves and the administrative allowance computation shall "not apply." No "cap" is referenced to this allowed utilization in the law. In ROPS 13-14B, it was indicated that \$129,196 of reserves were being applied to cover administrative costs as specified by this section of the law.

Staff requested a reconsideration of DOF's position discussing and completely citing the Code sections above; however, DOF has completely ignored that request. Since the only course remaining to recover costs to be incurred, which were approved by the Oversight Board, is litigation against DOF, that option was presented to the Successor Agency Board of Directors on January 21, 2014. The Successor Agency Board approved retaining legal counsel for that purpose and initiating that litigation. The firm of Best, Best & Krieger, LLP, Attorneys at Law, was contacted; and the firm has indicated that representation could be provided. 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, these would be validly included on ROPS. It is unclear as to whether or not this process is subject to Oversight Board and DOF approval; however, that approval is being requested so DOF does not arbitrarily deny it for lack of that approval.

The City of Montclair has reevaluated the services provided to our Successor Agency as the City should not be financially harmed because of this determination. As a result of this, staff has indicated to DOF that questions regarding the LRPMP would be researched and answered when administrative funding is available in the future as administrative services would not be provided without compensation.

**FISCAL IMPACT:** Unknown precisely; however, an estimation of these costs would range from \$100,000 to \$150,000.

**RECOMMENDATION:** Staff recommends the Oversight Board adopt Resolution No. 14-04, a Resolution of the 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.

**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 actions of the Successor Agency and 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 XX day of XX, 2014.

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Chairman

**ATTEST:**

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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 XX day of XX, 2014, and that it was adopted by the following vote, to-wit:

AYES:       XX  
NOES:       XX  
ABSTAIN:   XX  
ABSENT:    XX

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Yvonne L. Smith  
Secretary