

RESOLUTION NO. 12-12

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY ADOPTING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR JANUARY 1, 2013, THROUGH JUNE 30, 2013, 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 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 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 ROPS for July 1, 2012, through December 31, 2012, must be submitted to the County and State by May 15, 2012; and

WHEREAS, the Oversight Board approved the ROPS for July 1, 2012, through December 31, 2012, on May 9, 2012, and authorized 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, 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 for January 1, 2013, through June 30, 2013, from October 1, 2012, to September 1, 2012, and included a \$10,000 per day fine for each day the ROPS is delinquent; and

**WHEREAS**, the ROPS for the period from January 1, 2013, through June 30, 2013, has been approved by the Successor Agency on August 20, 2012, and is submitted for review to the Oversight Board for consideration; 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.

**NOW, THEREFORE, BE IT RESOLVED** that the Oversight Board of 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 January 1, 2013, through June 30, 2013.

**Section 3.** The Oversight Board authorizes the Successor Agency to transmit the ROPS to the County Auditor-Controller, the 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.

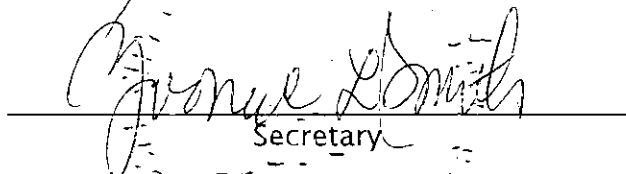
**Section 5.** This Resolution shall become effective after transmittal of this Resolution with the ROPS attached to the DOF and the expiration of three (3) business days pending a request for the review of the DOF within the time periods set forth in the Dissolution Act; in this regard, if the DOF requests review hereof it will have 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, will not be effective until approved by the 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 27th day of August, 2012.

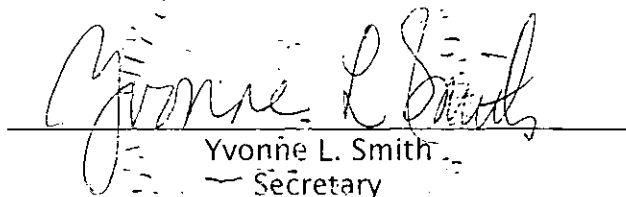
  
Chairman

**ATTEST:**

  
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. 12-12 was duly adopted by the Oversight Board of Director at a regular meeting thereof held on the 27th day of August, 2012, and that it was adopted by the following vote, to-wit:

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

  
Yvonne L. Smith  
Secretary

**Successor Agency Contact Information**

Name of Successor Agency: City of Montclair Successor Agency for the City of Montclair Redevelopment Agency  
County: San Bernardino

Primary Contact Name: Donald L. Parker, CPA  
Finance Director  
Primary Contact Title: City of Montclair, 5111 Benito Street  
Montclair, CA 91763

Address  
Contact Phone Number: 909-625-9418  
Contact E-Mail Address: [dparker@cityofmontclair.org](mailto:dparker@cityofmontclair.org)

Secondary Contact Name: Marilyn Staats  
Deputy City Manager/  
Secondary Contact Title: Exec. Dir. Econ. Dev.  
Secondary Contact Phone Number: 909-625-9412  
Secondary Contact E-Mail Address: [mstaats@cityofmontclair.org](mailto:mstaats@cityofmontclair.org)

**SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

Filed for the January 1, 2013 to June 30, 2013 Period

Name of Successor Agency: City of Montclair Successor Agency for the City of Montclair Redevelopment Agency

	Total Outstanding Debt or Obligation
<b>Outstanding Debt or Obligation</b>	\$ 86,989,026
<b>Current Period Outstanding Debt or Obligation</b>	<b>Six-Month Total</b>
A Available Revenues Other Than Anticipated RPTTF Funding	1,189,928
B Anticipated Enforceable Obligations Funded with RPTTF	1,240,282
C Anticipated Administrative Allowance Funded with RPTTF	193,235
D Total RPTTF Requested (B + C = D)	1,433,517
Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be the same amount as ROPS form six-month total</i>	\$ 2,623,445
E Enter Total Six-Month Anticipated RPTTF Funding <i>(Obtain from county auditor-controller)</i>	2,489,940
F Variance (E - D = F) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	\$ 1,056,423
<b>Prior Period (January 1, 2012 through June 30, 2012) Estimated vs. Actual Payments</b> (as required in HSC section 34186 (a))	
G Enter Estimated Obligations Funded by RPTTF <i>(Should be the lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed)</i>	7,151,403
H Enter Actual Obligations Paid with RPTTF	7,636,995
I Enter Actual Administrative Expenses Paid with RPTTF	-
J Adjustment to Redevelopment Obligation Retirement Fund (G - (H + I) = J)	-
<b>K Adjusted RPTTF</b> <i>(The total RPTTF requested shall be adjusted if actual obligations paid with RPTTF are less than the estimated obligation amount.)</i>	\$ 1,433,517

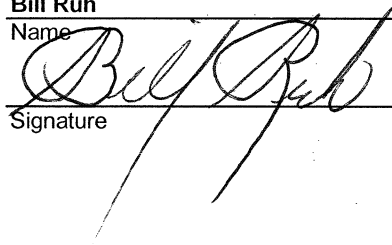
(Note 1)

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

Signature



**Chairperson**

Title

Date

27 August 2012



STRADLING YOCCA CARLSON & RAUTH

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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DAVID R. MCEWEN

DIRECT DIAL: (949) 725-4162  
DMCEWEN@SYCR.COM

May 10, 2012

Marilyn Staats  
City of Montclair  
5111 Benito Street  
Montclair, CA 91763

Re: Effective Date of Contract

Dear Ms. Staats:

You have asked for my opinion as to the validity of the action of the City of Montclair Redevelopment Agency (the "Agency") on June 20, 2011 to approve Agreement No. 11-65 (the "Agreement") to fund a \$1,000,000 loan of housing funds to the Montclair Housing Corporation. The promissory note was executed as of July 1, 2011 after the June 28, 2011 effective date of ABx1 26. The Department of Finance ("DOF") has rejected the obligation of the Agency to fund the loan to the Montclair Housing Corporation on the basis that the Agreement did not become effective until after the effective date of ABx1 26.

It is my opinion that the Agreement came into existence as of June 20, 2011, when both Agency and Montclair Housing Corporation approved the Agreement. Under general principles of contract law, a contract comes into existence upon the acceptance of an offer. In this case that occurred on June 20, 2011, when both parties to the Agreement took formal action to approve the Agreement.

This conclusion is further supported by state law and judicial precedent. Code of Civil Procedure Section 864 provides guidance as to the effective date of such contract. Code of Civil Procedure Section 864 ("CCP 864") states:

"For purposes of this chapter, bonds, warrants, contracts, obligations, and evidences of indebtedness shall be deemed to be in existence upon their authorization. Bonds and warrants shall be deemed authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance authorizing their issuance, and *contracts shall be deemed authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance approving the contract and authorizing its execution.*" (emphasis added.)

Marilyn Staats  
City of Montclair  
August 27, 2012  
Page 2

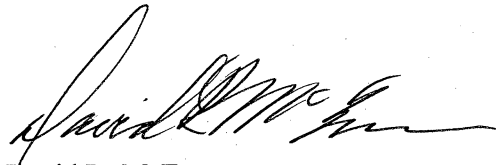
In *Smith v. Mt. Diablo Unified Sch. Dist.*, 56 Cal. App. 3d 412 (1976) the court held that a public agency's contract was formed at the time of its authorization. There, a written bid was accepted at the board meeting. The motion of the board, passed by a vote of four to one, was the requisite approval of the contract and authorization of its execution. As the court explained: the Agency's award and authorization of a contract at a regular public meeting was the equivalent of a resolution and has the same binding effect as such. The *Smith* Court's conclusion is consistent with CCP 864 in that a contract's approval does not require a signature by the governing body to be valid. Similarly, in *San Diego City Firefighters, Local 145 v. Board of Administration etc.*, 206 Cal. App. 4th 594, 609 (2012) the court concluded that once the governmental body votes to accept a memorandum of understanding, it becomes a binding agreement.

The execution of the agreement was a ministerial act that merely carried out the formal actions of the respective parties. As provided in the statute and cases set forth above, the contract became an enforceable obligation on June 20, 2011.

If you have any questions, please give me a call.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH



David R. McEwen

Name of Successor Agency:

City of Montclair Successor Agency for the City of Montclair Redevelopment Agency

County:

San Bernardino

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III) -- Notes (Optional)
January 1, 2013 through June 30, 2013

Table with 2 columns: Item #, Notes/Comments. Contains notes regarding ROPS III, Summary Item G, ROPS Item #21, and Prior Period Payments Notes.



Name of Successor Agency: City of Montclair Successor Agency for the City of Montclair Redevelopment Agency  
 County: San Bernardino

Pursuant to Health and Safety Code section 34186 (a)  
 PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS  
 RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS I)  
 January 1, 2012 through June 30, 2012

Page/Form	Line	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	LMIHF		Bond Proceeds		Reserve Balance		Admin Allowance		RPTTF		Other	
						Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
<b>Grand Total</b>						\$ 1,328,547	\$ 143,812	\$ -	\$ 2,277,940	\$ -	\$ 2,160,412	\$ 584,739	\$ -	\$ 12,241,934	\$ 7,636,995	\$ -	\$ -
RPTTF	1)	1997 Taxable Tax Allocation Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 1									32,640.00	8,820.00		
RPTTF	2)	2007A Tax Allocation Refunding Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 3									1,584,787.51	544,893.75		
RPTTF	3)	2007B Taxable Tax Allocation Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 3									304,283.50	89,641.75		
RPTTF	4)	2004 Tax Allocation Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 4									367,975.00	113,987.50		
RPTTF	5)	2001 Tax Allocation Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 5									765,960.00	235,480.00		
RPTTF	6)	2006A Tax Allocation Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 5									567,969.50	198,984.75		
RPTTF	7)	2006B Tax Allocation Bonds	Bank of New York Mellon	Bond issue to fund non-housing projects	Project Area 5									155,800.00	77,900.00		
RPTTF	8)	2008 Tax Allocation Notes	Bank of New York Mellon	Mission Blvd-Notes issue to fund non-housing projects	Project Area 6				2,277,939.72		1,569,777.41			7,995,000.00	4,147,282.87		
	<b>Note 6</b>	Low & Moderate Housing Set-Aside	Low & Moderate Housing Funds	Required set-aside on pre 2/1 tax increment	All Areas									N/A	1,430,280.54		
	<b>Note 7</b>	Pass Through Obligations	Various Taxing Entities	Required payments made on pre 2/1 for pass throughs	All Areas									N/A	789,723.63		
RPTTF	9)	ADMIN Employee Costs	Employess of Agency	Project Management Costs	All Areas						382,869.81	242,969.58		170,086.64	<b>Note 4 &amp; Note 5</b>		
RPTTF	10)	Advertising for Bond costs	Source Media	Publication of Bond Call Notice	All Areas									4,500.00	<b>Note 4</b>		
RPTTF	11)	Utility Costs	Southern California Edison Co	Temporary utility costs for properties	Project Area 3						183.28			1,152.00	<b>Note 4</b>		
RPTTF	12)	Contract for Professional Service	Southern California Landscape	Temporary Foundation 11 landscape maintenance services	Project Area 3						20,140.22			18,000.00	<b>Note 4</b>		
RPTTF	13)	Contract for Professional Service	Southern California Landscape	Foundation Area 11 required repairs/replacement	Project Area 3									20,000.00	<b>Note 4</b>		
RPTTF	14)	Contract for Legal Services	Stradling, Yocca, Carlson & Rauth	Agency legal services	All Areas						11,142.48			62,100.00	<b>Note 4</b>		
RPTTF	15)	Comm. Rehab. Loan Agreement	Jana Maria Campbell & Dennis Silletto	Commercial Rehabilitation Loan	Project Area 4						1,836.00			15,000.00	<b>Note 4</b>		
RPTTF	16)	Contract for Construction	Earth Tek Engineering Corp	Alma Hofman Park Improvement Project	Project Area 1									12,839.20	<b>Note 4</b>		
RPTTF	17)	Monument Sign Repairs	Sign A Rama	Foundation Area 11 required repairs	Project Area 3									2,000.00	<b>Note 4</b>		
RPTTF	18)	Maintenance Contract	Landmark Fence	Foundation Area 11 and 12 required repairs	Project Area 3									10,000.00	<b>Note 4</b>		
RPTTF	19)	Title Report Costs	Chicago Title	Title Report RE: FA 11	Project Area 3						600.00			600.00	<b>Note 4</b>		
RPTTF	20)	Contract for Bond Trustee Service	Bank of New York Mellon	Annual bond trustee fees/costs	All Areas						2,830.20			9,650.00	<b>Note 4</b>		
RPTTF	21)	Contract for Legal Services	Best Best & Krieger LLP	Agency legal services	Project Area 3						47,454.19			70,626.00	<b>Note 4</b>		
RPTTF	22)	Contract for Bond Services	Bondlogistix LLC	Bond Continuing Disclosure services	All Areas						18,000.00			13,500.00	<b>Note 4</b>		
RPTTF	23)	Contract for Bond Services	Bondlogistix LLC	Bond Arbitrage Rebate Calculation services	All Areas									10,500.00	<b>Note 4</b>		
RPTTF	24)	Contract for consulting services	Governments	Cost to participate in Compass 2 percent Strategy Program	Project Area 3									6,800.00	<b>Note 4</b>		
RPTTF	25)	Agency Subscription costs	Montclair Chamber of Commerce	CoStar Subscription	All Areas						5,588.80			2,059.20	<b>Note 4</b>		
RPTTF	26)	Economic development costs	Montclair Chamber of Commerce	Economic Development and Business retention service	All Areas									7,059.20	<b>Note 4</b>		
RPTTF	27)	Rent of Office Space	Montclair Town Center LLC	Office rent	Proj Area 1, 3, 4, 5						12,802.80			12,802.80	<b>Note 4</b>		
RPTTF	28)	Utility costs	Monte Vista Water District	Temporary water services	Project Area 3						3,247.71			6,382.50	<b>Note 4</b>		
RPTTF	29)	ADMIN Contract for Professional Service	Donald Parker, CPA	Financial Oversight Services	All Areas						6,056.25	20,000.00		5,000.00	<b>Note 4 &amp; Note 5</b>		
RPTTF	30)	Graffiti Abatement Costs	City of Montclair	Removal of graffiti in RDA areas	All Areas									3,761.05	<b>Note 4</b>		
RPTTF	31)	Office Supplies	Staples/Office Depot	Office supplies	All Areas									600.00	<b>Note 4</b>		
RPTTF	32)	Contract for Legal Services	Robbins and Holdaway	Legal Services	All Areas						1,213.27			2,500.00	<b>Note 4</b>		
LMIHF	1)	Rehabilitation Loan Agreements	Montclair Housing Corporation	Rehabilitation loan for replacement housing obligation/other	All Areas	1,000,000.00											
LMIHF	2)	Housing Improvement Costs	Neighborhood Partership Housing	Safe Homes for Seniors costs	All Areas	16,000.00	5,400.00										
LMIHF	3)	Housing Improvement Loans	Neighborhood Partership Housing	Single family housing rehabilitation loans	All Areas	180,000.00											
LMIHF	4)	Homebuyers Assist. Program Agmt.	US Bank	Shared Appreciation costs on Homebuyer Assistance Program	Project Area 4 & 5	2,000.00											
LMIHF	5)	Homebuyers Assist. Program Agmt.	US Bank	Homebuyer Assistance program servicing fees	Project Area 4 & 5	304.00	35.89										
LMIHF	6)	Contract for Professional Service	Landscape Maintenance Unlimited	Asset Maintenance	Project Area 5	1,998.00					600.00						
LMIHF	7)	Employee Costs	Employees of Agency	Affordability Monitoring & Project Mgmt Costs	All Areas	68,245.26	137,536.79										
LMIHF	8)	Contract Legal Services	Stradling, Yocca, Carlson & Rauth	Legal Services	All Areas	24,000.00	839.35										
LMIHF	9)	Office Supplies	Staples/Office Depot	Office Supplies	All Areas	200.00											
LMIHF	10)	Housing Improvement Costs	Neighborhood Partership Housing	Service fees for Senior grants	All Areas	3,300.00											
LMIHF	11)	Housing Improvement costs	Neighborhood Partership Housing	Service fees for Rehab loans	All Areas	30,000.00											
LMIHF	12)	Contract Legal Services	Robbins and Holdaway	Legal Services	All Areas	1,000.00											
LMIHF	13)	Maintenance Contract	Buchbinder Maintenance Inc.	Vandalism Repairs	Project Area 5	1,500.00					798.71						
ADMIN	2)	Contract for Legal Services	Robbins & Holdaway	Legal services	All Areas								10,002.00				
ADMIN	3)	Agency vocational training costs	California Redevelopment Associaton	Training on Administration of Successor Agency	All Areas								1,000.00				
ADMIN	4)	Agency Insurance Costs	Kessler-Alair Insurance Services	Public Employee's Bond	All Areas								87.00				
ADMIN	5)	Agency Delivery Service	Federal Express Corp	Delivery Service	All Areas								250.02				
ADMIN	6)	Contract for Professional Service	Teaman, Ramirez and Smith, Inc.	Audit and compliance services	All Areas								15,500.00				
ADMIN	7)	Contract for Professional Service	Hdl Coren & Cone	Pass Through Calculations	All Areas						9,743.88		10,000.00				
ADMIN	8)	Overhead Costs	City of Montclair	Overhead Costs	All Areas						26,698.11		15,963.00				
ADMIN	10)	Contract for Legal Services	Stradling, Yocca, Carlson & Rauth	Legal services	All Areas						224.00		60,000.00				