

**RESOLUTION NO. 2014-03 (OVERSIGHT BOARD)**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY RELATING TO UNSPENT BOND PROCEEDS AND MAKING RELATED FINDINGS AND DECLARATIONS AND TAKING RELATED ACTIONS**

**WHEREAS**, California enacted Part 1.85 of the Health and Safety Code, Sections 34170 *et seq.* (the "Dissolution Law") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code section 33000 *et seq.*);

**WHEREAS**, pursuant to Health and Safety Code section 34173, the City Council of the City of Santa Clara (the "City Council") declared that the City of Santa Clara, a charter city (the "City"), would act as successor agency (the "Successor Agency") for the dissolved City of Santa Clara Redevelopment Agency (the "RDA") effective February 1, 2012;

**WHEREAS**, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172;

**WHEREAS**, on March 8, 2011 prior to its dissolution the RDA transferred to the City unspent bond proceeds from the 1999 Series A and Series B Tax Allocation Bonds (the "1999A Bonds" and the "1999B Bonds, respectively, and collectively the "1999 Bonds") in the amount of \$56,900,192 and from the 2003 Tax Allocation Bonds (the "2003 Bonds") in the amount of \$5,855,966;

**WHEREAS**, in May 2011, the RDA sold Tax Allocation Bonds in the amount of \$31,411,295 (the "2011 Bonds"). Of the net proceeds of \$27,697,231, \$25,000,000 from the 2011 Bonds was transferred to the City by the RDA.

**WHEREAS**, the City has previously returned the following bond proceeds to the Successor Agency: 1999 Bonds ( \$ 11,113,156) and 2011 Bonds (\$25,000,552.06);

**WHEREAS**, bond proceeds transferred by the RDA to the City prior to the RDA's dissolution may be subject to clawback by the State Controller's Office ("SCO") pursuant to Health and Safety Code section 34167.5, and the orders of the State Department of Finance ("DOF") pursuant to Health and Safety Code section 34179.6;

**WHEREAS**, the Internal Revenue Code of 1986 ("Code") imposes several requirements on issuers of tax-exempt bonds. These requirements must be met at issuance and throughout the term of the bonds. One of these requirements is that the issuer must have a reasonable expectation of spending 85% of the bond proceeds for qualified purposes within three years from the date of issuance.

**WHEREAS**, the Successor Agency has succeeded to the RDA's interest as issuer of the bonds. Therefore, if any arbitrage or other penalties are due and payable with respect to the bonds, then the Successor Agency could be obligated to pay those amounts. This, in turn, would reduce the amount of residual redevelopment property tax revenues available for distribution to the taxing entities;

**WHEREAS**, the effective interest rate on the 2011 Bonds ranges between 4.75% and 7.86%;

**WHEREAS**, the 2011 Bond covenants preclude redemption of the bonds prior to June 1, 2021;

**WHEREAS**, the Dissolution Law provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code section 34181;

**WHEREAS**, the Dissolution Law imposes certain duties on the Oversight Board, including but not limited to, fiduciary responsibilities to holders of enforceable obligations and the taxing

entities that benefit from distributions of property tax and other revenues, pursuant to Health and Safety Code Section 34179(i);

**WHEREAS**, Health and Safety Code Section 34179(c) authorizes the Oversight Board to direct the Successor Agency staff to perform work in furtherance of the Oversight Board's duties and responsibilities under the Dissolution Law;

**WHEREAS**, Health and Safety Code section 34181(e) authorizes the Oversight Board to direct the Successor Agency to determine whether any contracts, agreements, or other arrangements between the dissolved RDA and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and to present such agreements to the Oversight Board for approval. The Board may approve any amendments to or termination of such agreements if it finds that doing so would be in the best interests of the taxing entities;

**WHEREAS**, the dissolved RDA covenanted to the owners of the bonds, in connection with the issuance of the bonds, to take actions to maintain the tax-exempt status of the bonds, and such covenants are now an important obligation of the Successor Agency at a priority level equal to the payment of debt service on the bonds;

**WHEREAS**, the Dissolution Law includes bonds in the definition of "enforceable obligations" pursuant to Health and Safety Code section 34171;

**WHEREAS**, the Successor Agency's Recognized Obligation Payment Schedule ("ROPS") for July 1, 2014 to December 31, 2014 ("ROPS 14-15A") approved by the Oversight Board on February 27, 2014 includes, but is not limited to, debt service for the following bonds: the 1999 Bonds and the 2011 Bonds;

**WHEREAS**, as of February 27, 2014, the outstanding debt service obligation on the 1999 Bonds was approximately \$53,925,669. The debt service payment for the six-month period from July 1, 2014 to December 31, 2014 for the 1999 Bonds' outstanding debt obligation is \$1,131,081. This debt service payment is paid entirely from the Redevelopment Property Tax Trust Fund ("RPTTF");

**WHEREAS**, as of February 27, 2014, the 2011 Bonds collectively had an approximate outstanding debt obligation of \$60,582,350. The debt service payments on the 2011 Bonds for ROPS 14-15A is \$325,306. This debt service payment is paid entirely from the RPTTF;

**WHEREAS**, pursuant to the Official Statement and the Fiscal Agent Agreement for the 1999 Bonds, the 1999 Bonds are subject to optional redemption at any time in whole or in part from any available source of funds;

**WHEREAS**, pursuant to the Official Statement and the Fiscal Agent Agreement for the 2011 Bonds, the 2011 Bonds maturing on or before June 1, 2021 are not subject to redemption prior to their respective stated maturity dates. The 2011 Bonds maturing on or after June 1, 2022 are subject to optional redemption in whole or in part from any available source of funds on any date on or after June 1, 2021;

**WHEREAS**, the Oversight Board has previously been advised that using the unspent proceeds of the bonds to redeem or defease the bonds as soon as possible is the best way to mitigate any tax risk associated with the delayed expenditure of the bond proceeds;

**WHEREAS**, consistent with its fiduciary responsibilities to the taxing entities, the Oversight Board finds that it is prudent to use any bond proceeds currently possessed by the Successor Agency or any future bond proceeds that the Successor Agency subsequently acquires in a

manner to minimize to the maximum extent feasible the risks associated with the delayed expenditure of the bond proceeds and to maximize the return of funds to the taxing entities;

**WHEREAS**, with regard to the 1999 Bonds, the Oversight Board finds that use of the 1999 Bonds unspent proceeds to redeem the 1999 Bonds to the fullest extent possible is in the best interests of the taxing entities and consistent with the Successor Agency's fiduciary duties to bondholders, as holders of enforceable obligations; and

**WHEREAS**, with regard to the 2011 Bonds, the Oversight Board finds that transfer of the 2011 Bonds unspent proceeds to the Fiscal Agent for the 2011 Bonds for defeasance and redemption of the 2011 Bonds on the earliest possible date would be in the best interests of the taxing entities. In addition, the Dissolution Law requires defeasance of the 2011 Bonds;

**WHEREAS**, the record before the Oversight Board provides supporting information upon which the actions set forth in this Resolution are based.

**NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY AS FOLLOWS:**

SECTION 1. The Oversight Board hereby finds, resolves, and determines that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff, Oversight Board members, and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

SECTION 2. With respect to the 1999 Bonds, the 2003 Bonds, and the 2011 Bonds the Oversight Board requires the Successor Agency to immediately use whatever bond proceeds from these issuances that the Successor Agency currently controls and whatever future bond

proceeds that it may control immediately to defease/redeem these bond issuances in accordance with the following direction:

- (a) For the 1999 Bonds and the 2003 Bonds, the unspent bond proceeds of an issue of bonds will be transferred immediately to the fiscal agent for such bonds, and the fiscal agent will be directed to use such proceeds to call and redeem, on the earliest date possible, as many bonds as possible of that issue starting with the latest outstanding maturity of bonds of that issue and progressing in reverse order of maturity;
- (b) For the 2011 Bonds, the unspent bond proceeds will be transferred immediately to the fiscal agent for such bonds and as soon as possible an escrow agreement or letter of instructions will be drafted and executed with or for the fiscal agent for the bonds specifying that the unspent bond proceeds so transferred will be irrevocably deposited in an escrow account and used to legally defease and redeem bonds, and the bonds to be defeased will be selected such that: (1) as of the date of the defeasance, the weighted average maturity of the bonds of the issue to be defeased is the same as (or due solely to whole bond rounding, slightly greater than) the weighted average maturity of all of the bonds outstanding of the issue and (2) the bonds selected to be defeased will be the bonds scheduled to mature first and the bonds scheduled to mature last such that the principal amount of the bonds scheduled to mature first will be maximized.

SECTION 3. The Oversight Board directs the Successor Agency to direct the fiscal agent of the 2011 Bonds, The Bank of New York Mellon Trust Company, N.A. (BNY Mellon), in writing by January 7, 2015, to establish an irrevocable escrow fund, in the amount of \$25 million, and to lock all proceeds into a US treasury bond with a maturity date around June 30, 2021;

SECTION 4. The Oversight Board directs that the unspent 1999 Bonds proceeds, in the amount of \$11.1 million, and that the unspent 2011 Bond proceeds, in the amount of \$25 million, be added to the ROPS for the period of January 1, 2015 through June 30, 2015 (“ROPS 14-15B”);

SECTION 5. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code section 34179(h).

SECTION 6. Severability. If any provision or clause of this Resolution or the application thereof is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Resolution which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this Resolution are declared to be severable.

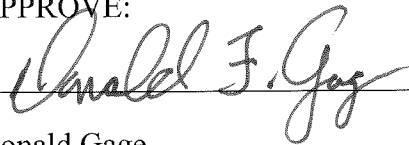
SECTION 7. Third Party Beneficiary Enforcement. All taxing entities as defined in Health and Safety Code section 34171 (k) affected by the RDA’s dissolution are express third party beneficiaries of this Resolution. It is the intent of this Resolution to authorize such taxing entities to the fullest extent authorized under law to enforce this Resolution in a court of competent jurisdiction or otherwise.

CERTIFICATION

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A SPECIAL MEETING THEREOF HELD ON THE 19th DAY OF SEPTEMBER, 2014, BY THE FOLLOWING VOTE:

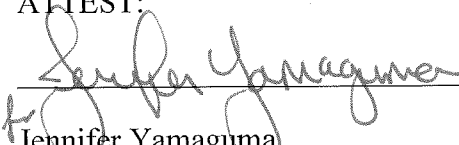
AYES:	BOARD MEMBERS:	Cauble, Chheng, Guthrie and Chairperson Gage
NOES:	BOARD MEMBERS:	Ameling and Gillmor
ABSENT:	BOARD MEMBERS:	Maduli
ABSTAINED:	BOARD MEMBERS:	None

APPROVE:



Donald Gage  
Chairperson

ATTEST:



Jennifer Yamaguma  
Clerk to the Oversight Board