

**From:** Gary Ameling

**Sent:** Monday, February 02, 2015 5:04 PM

**To:** 'redevelopment\_administration@dof.ca.gov' (redevelopment\_administration@dof.ca.gov)

**Cc:** Julio Fuentes; Richard Nosky; Alan Kurotori; Ruth Shikada; Tamera Haas; Yvonne Galletta; Elizabeth Elliott; Karen M. Tiedemann (KTiedemann@goldfarbblipman.com); Gary Ameling; Marcelo Penha

**Subject:** Santa Clara Oversight Board Resolution No. 2015-01 - Bond Proceeds

Hello,

Attached please find Resolution No. 2015-01 which was adopted by the Santa Clara Oversight Board at its February 2, 2015 meeting. Please note that the Successor Agency to the Redevelopment Agency of the City of Santa Clara continues to believe that the remaining proceeds from the 1999 tax allocation bond issue could still be used for the purposes for which the bonds were issued and has always planned to bring forward requests to enter into enforceable obligations using the bond proceeds once it receives a finding of completion. Despite the passage of this Resolution, we reserve our rights to seek to use these pre-2011 bond proceeds in accordance with the provisions of the Dissolution Act or in some other way that provides a credit for the amount of remaining bond proceeds.

Best Regards,

Gary Ameling  
Director of Finance/Assistant City Manager  
City of Santa Clara  
1500 Warburton Ave.  
Santa Clara, CA 95050  
(408) 615-2345

**RESOLUTION NO. 2015- 01 (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**

**WHEREAS**, the California Legislature 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**, 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 SCO and DOF did order the return of various bond proceeds;

**WHEREAS**, the City has partially complied with the SCO and DOF orders and so has previously returned the following bond proceeds to the Successor Agency: 1999 Bonds (\$11,113,156) and 2011 Bonds (\$25,000,560);

**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 bonds constitute "enforceable obligations" pursuant to Health and Safety Code section 34171;

**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(e) 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, including but not limited to the Oversight Board's fiduciary duties to holders of enforceable obligations and the affected taxing entities:

**WHEREAS**, Health and Safety Code section 34171(d)(1)(E) provides in part that "[N]othing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing any necessary and required compensation or remediation for such termination."

**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 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**, the Successor Agency's ROPS for January 1, 2015 to July 1, 2015 ("ROPS 14-15B") approved by the Department of Finance on November 14, 2014 includes the defeasance/redemption of the unspent bond proceeds for 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 and, if implemented, such a redemption constitutes a partial termination pursuant to Health and Safety Code Section 34181(e);

**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 and, if implemented, such a redemption constitutes a partial termination pursuant to Health and Safety Code Section 34181(e);

**WHEREAS**, the Oversight Board has previously been advised publicly that using the unspent proceeds of the bonds to redeem or defease the bonds as soon as possible is a proactive strategy to mitigate any potential 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**, as stated above, the 1999 Bonds and the 2011 Bonds contain call provisions that authorize the issuer, now the Successor Agency, to redeem/defeas the bonds.

**WHEREAS**, the use of unspent bond proceeds reduces liabilities because it results in a proportionate reduction of outstanding principal due, plus a reduction of interest owed;

**WHEREAS**, the use of unspent bond proceeds increases net revenues to the affected taxing entities by reducing the amount of current or future debt service required to be paid on the ROPS from the RPTIF, thereby directly increasing distributions of property tax to the taxing entities;

**WHEREAS**, the record before the Oversight Board, specifically including discussion and materials presented at the July 2013, August 2013, and September 19, 2014 meetings, provides supporting information upon which the actions set forth in this Resolution are based; and,

**WHEREAS**, the Oversight Board finds that this Resolution is in the best interests of the affected taxing entities.

**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. Consistent with Health and Safety Code Sections 34181(e) and 34171(d)(1)(E), the Oversight Board directs the Successor Agency to prepare specific defeasance plans for the 1999 Bonds and the 2011 Bonds. The purpose of each defeasance plan shall be to use all bond proceeds from these issuances that the Successor Agency currently controls and whatever future bond proceeds that it may control to defease/redeem these bond issuances in a manner that to the fullest extent possible reduces liability and increases net revenues to the taxing entities.

Implementation of such defeasance plans to redeem/defease the bond issues consistent with reducing liability and increasing net revenues to the taxing entities shall constitute a termination consistent with Health and Safety Code Section 34181(e) and is in the best interests of the affected taxing entities. The Successor Agency shall present the proposed defeasance plans and recommendations for termination to the Oversight Board on or before February 27, 2015.

SECTION 3. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code section 34179(h).

SECTION 4. 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.

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SECTION 5. 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

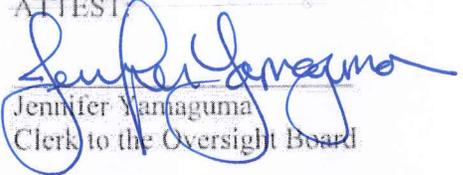
I HEREBY CERTIFY THE FORGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY AT A SPECIAL MEETING THEREOF HELD ON 2<sup>nd</sup> DAY OF FEBRUARY 2015, BY THE FOLLOWING VOTE:

|          |               |  |
|----------|---------------|--|
| AYES:    | BOARD MEMBERS | Ameling, Guthrie, Maduli, Matthews, Minato, Ochoa and Chair Gage |
| NOES:    | BOARD MEMBERS | None   |
| ABSTAIN: | BOARD MEMBERS | None   |
| ABSENT:  | BOARD MEMBERS | None   |

APPROVE:

  
Don Gage  
Chairperson

ATTEST:

  
Jennifer Yamaguma  
Clerk to the Oversight Board