

RESOLUTION NO. SBOB/2012-17

**RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN BERNARDINO CONFIRMING THE DESIGNATION OF A DEED OF TRUST AND COVENANTS AS HOUSING ASSETS; APPROVING A SHORT SALE; AND AUTHORIZING THE RECONVEYANCE OF THE DEED OF TRUST AND TERMINATION OF COVENANTS RELATING TO PROPERTY LOCATED AT: 5585 ASTER STREET, SAN BERNARDINO, CALIFORNIA**

WHEREAS, on January 9, 2012, the Mayor and Common Council of the City of San Bernardino ("Council") adopted Resolution No. 2012-12 confirming that the City of San Bernardino would serve as the "Successor Agency" to the Redevelopment Agency of the City of San Bernardino ("Agency") effective February 1, 2012, pursuant to AB1X 26 (The Redevelopment Agency Dissolution Act); and

WHEREAS, on January 23, 2012, the Council adopted Resolution No. 2012-19 confirming that the City would serve as the "Successor Housing Agency" to the former Agency and perform the housing functions previously performed by the Agency; and

WHEREAS, pursuant to Health & Safety Code Section 34181(c), added by ABIX 26 the Oversight Board is required to direct the transfer of the former Agency's housing assets and functions to the Housing Successor Agency; and

WHEREAS, pursuant to Health & Safety Code Section 34176(e)(1), added by AB1484, deeds of trust and restrictions on the use of real property such as affordability covenants benefiting the Agency are considered "housing assets"; and

WHEREAS, the Agency provided a downpayment assistance loan ("Loan") to the purchaser ("Homeowner") of real property located at 5585 Aster Street, San Bernardino, California ("Property") in the amount of \$70,500; and

WHEREAS, the Loan was secured by a Deed of Trust, executed by the Homeowner on April 1, 2008, and recorded against the Property in the Official Records of the County of San Bernardino on April 17, 2008 as Instrument Number 20080171836 ("Deed of Trust"); and

WHEREAS, in connection with the Loan, the Homeowner executed certain affordability covenants against the Property in the Official Records of the County of San Bernardino on April 17, 2008 and Instrument Number 2008017835 ("Covenants"); and

1           WHEREAS, now the Homeowner must sell the Property and there is not sufficient equity to  
2 pay off the Loan; and

3           WHEREAS, the Homebuyer has requested that the Housing Successor Agency agree to  
4 forgive repayment of the Loan, reconvey the Deed of Trust, and terminate the Covenants, all in  
5 order to enable the Homeowner to sell the Property, and

6           WHEREAS, as a prerequisite to issuing an owner's policy of title insurance to the proposed  
7 purchaser of the Property, the title company requires a resolution of the Oversight Board to the  
8 Successor Agency ("Oversight Board") (1) confirming that the Deed of Trust and Covenants  
9 constitute "housing assets" as defined in Health & Safety Code Section 34176(e), (2) directing the  
10 Successor Agency to transfer the Deed of Trust and Covenants to the Housing Successor Agency in  
11 accordance with Health & Safety Code Sections 34176 and 34181(c), and (3) approving the  
12 forgiveness of the Loan, the reconveyance of the Deed of Trust, and the termination of the  
13 Covenants; and

14           WHEREAS, the Oversight Board desires by this Resolution to (1) confirm that the Deed of  
15 Trust and Covenants are housing assets, (2) direct the Successor Agency to transfer the Deed of  
16 Trust and Covenants to the Housing Successor Agency and (3) approve the forgiveness of the Loan,  
17 the reconveyance of the Deed of Trust, and the termination of the Covenants; and

18           WHEREAS, the State of California Department of Finance, the State of California  
19 Controller's Office, the County Auditor-Controller of the County of San Bernardino and the Office  
20 of the Chief Executive Officer of the County of San Bernardino have been properly notified prior to  
21 the adoption of this Resolution.

22           NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD TO THE  
23 SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN  
24 BERNARDINO, AS FOLLOWS:

25           **Section 1.** Pursuant to Health & Safety Code Section 34176, the Oversight Board does  
26 hereby find and determine, based on the evidence in the record, that the Deed of Trust and  
27 Covenants are "housing assets" as defined in Section 34176(e). Pursuant to Health & Safety Code  
28 Section 34181(c), the Successor Agency is hereby directed to transfer the Deed of Trust and  
Covenants to the Successor Housing Agency.

**Section 2.** The Oversight Board hereby approves the forgiveness of the Loan in  
connection with the proposed sale of the Property, the reconveyance of the Deed of Trust, and the

1 termination of the Covenants. The Oversight Board further hereby recommends that the Council  
2 approve such actions in its capacity as Housing Successor Agency.

3 **Section 3.** Upon approval by the Council acting in its capacity as Housing Successor  
4 Agency, the Council may authorize the City Manager, or designee, to effectuate the execution of a  
5 request for reconveyance of the Deed of Trust and termination of the Covenants and to cause such  
6 instruments to be recorded against the Property in the Official Records of the County of San  
Bernardino.

7 **Section 4.** This Resolution shall take effect from and after its date of adoption by this  
8 Oversight Board and the expiration of five business days from its transmittal to the Department of  
9 Finance, unless the Department of Finance requests review in which case this Resolution shall take  
effect upon approval by the Department of Finance.

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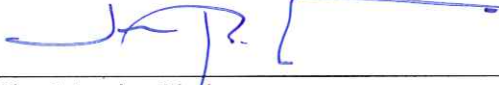
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 2 AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN  
 3 BERNARDINO CONFIRMING THE DESIGNATION OF A DEED OF  
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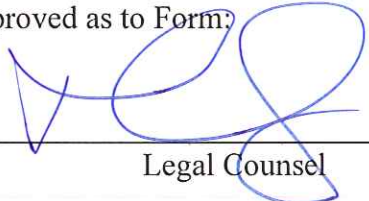
9 PASSED, APPROVED AND ADOPTED THIS 22nd day of October, 2012, by the  
 10 following vote:

11 Board Members:	Ayes	Nays	Abstain	Absent
12 JENKINS	<u>X</u>	___	___	___
13 HEADRICK	<u>X</u>	___	___	___
14 MACIAS-HARRISON	<u>X</u>	___	___	___
15 HILL	<u>X</u>	___	___	___
16 LONGVILLE	<u>X</u>	___	___	___
O'TOOLE	<u>X</u>	___	___	___
MORRIS	<u>X</u>	___	___	___

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 18 \_\_\_\_\_  
 19 Secretary

20 The foregoing Resolution is hereby approved this 22nd day of October, 2012.

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 23 Jim Morris, Chairman  
 24 Oversight Board to the Successor Agency to the  
 25 Redevelopment Agency of the City of San  
 26 Bernardino

27 Approved as to Form:  
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 By: \_\_\_\_\_  
 Legal Counsel