

Oversight Board of the City and County of San Francisco

RESOLUTION NO. 10-2013
Adopted September 23, 2013

APPROVING A SETTLEMENT WITH WELLS FARGO IN THE MATTER OF *IN RE MUNICIPAL DERIVATIVES ANTITRUST LITIGATION* REQUIRING WELLS FARGO TO PAY TO THE SUCCESSOR AGENCY APPROXIMATELY \$27,000 AND [[AUTHORIZING THE SUCCESSOR AGENCY TO SET ASIDE SUCH PAYMENT FOR A LITIGATION TRUST FUND TO OFFSET EXPENSES IN CONTINUING LITIGATION AGAINST OTHER DEFENDANTS]] AS BEING IN THE BEST INTEREST OF THE TAXING ENTITIES

WHEREAS, A class action lawsuit, *In re Municipal Derivatives Antitrust Litigation*, MDL No. 1950, alleging price-fixing in the sale of municipal derivatives is pending in the United States District Court for the Southern District of New York; and,

WHEREAS, The Successor Agency is one of several plaintiffs that is represented on a contingency fee basis by the law firm of Cotchett, Pitre and McCarthy LLP ("CPM") that has opted out of the class action and filed its own individual suit based on its purchase of derivatives from some of the defendants in the MDL proceedings (*Redevelopment Agency of City and County of San Francisco v. Bank of America, et al.*, Master Docket No. 08-2516, also part of MDL No. 1950); and,

WHEREAS, On March 6, 2012, the Oversight Board approved two proposed settlements with defendants in the case; the first with Bank of America and the second with Morgan Stanley. The first settlement required payment of \$27,617.48 to the Successor Agency and the second settlement required payment of \$10,036.36 to the Successor Agency (each to be paid after pro rata reductions were made for the out of pocket costs incurred by outside counsel prior to the date of those settlements); and,

WHEREAS, There is a new proposed settlement with another defendant, Wells Fargo. The proposed settlement is an offer of \$1.95 million dollars to the 14 individual plaintiffs represented by CPM; of which approximately \$27,000 would be allocated to the Successor Agency based on its pro rata share of damages after additional out of pocket costs are netted out (the "Proposed Wells Fargo Settlement"); and,

WHEREAS, All of the other individual plaintiffs represented by CPM have approved or are expected to approve the Proposed Wells Fargo Settlement, and it would not be economical for the Successor Agency to pursue additional litigation against Wells Fargo on its own; and,

WHEREAS, CPM has recommended that the individual plaintiffs set aside the Proposed Wells Fargo Settlement payment as part of a litigation trust fund (the "Litigation Trust Fund") to offset expenses in the continuing litigation against other defendants. CPM will waive its contingency fee claim on all amounts so expended. Most other individual plaintiffs have approved or are expected to approve the use of this Litigation Trust Fund; now, therefore, be it

RESOLVED, That, subject to the approval of the Oversight Board and review of the California Department of Finance, the Oversight Board hereby approves the Proposed Wells

Fargo Settlement and authorizes the Successor Agency and its counsel to execute an appropriate settlement agreement with Wells Fargo; and, be it further

RESOLVED, That, subject to review of the California Department of Finance, the Oversight Board authorizes the Successor Agency to allow CPM to retain its share of the settlement amount as part of the Litigation Trust Fund to offset further expenses of CPM in the litigation, subject to CPM waiving any contingency fee claims as to amounts expended from the fund; and, be it further

RESOLVED, That the Proposed Wells Fargo Settlement and the set aside for the Litigation Trust Fund are in the best interest of the taxing entities.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of September 23, 2013.

Natasha Obweg

Board Secretary