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OVERSIGHT BOARD FOR CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY

DATE OF ISSUANCE: 04/20/2012

SUBJECT: Initial Draft Recognized Obligation Payment Schedule ("Initial Draft ROPS"), Second Recognized Obligation Payment Schedule ("Second ROPS"), and Third Amended and Restated Enforceable Obligations Payment Schedule ("Third EOPS")

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DESCRIPTIVE SUMMARY OF ITEM:

Oversight Board approval of the proposed Initial Draft ROPS and the Third Amended EOPS identifying the Successor Agency's payment obligations for the period January 1, 2012 through June 30, 2012, and the Second ROPS identifying the Successor Agency's payment obligations for the period July 1, 2012 through December 31, 2012

STAFF RECOMMENDATION:

It is recommended that the Oversight Board approve the requested actions.

BACKGROUND:

On January 10, 2012, the City Council designated the City of San Diego ("City") to serve as the Successor Agency to the former Redevelopment Agency of the City of San Diego ("Former RDA") for purposes of winding down the Former RDA's operations and to retain the Former RDA's housing assets and assume the Former RDA's housing responsibilities pursuant to AB 26.

Under AB 26, the Recognized Obligation Payment Schedule ("ROPS") is the governing document as to payments that are allowed to be made by the Successor Agency during each applicable six-month period. The Enforceable Obligation Payment Schedule ("EOPS") serves as the authority for disbursement until the Initial Draft ROPS is certified by the Successor Agency Oversight Board.

The Successor Agency is required, among other things, to prepare ROPS documents for each six month period until all enforceable obligations have been met or for the remainder of the time period during which the Former RDA would have been authorized to obligate tax increment had the Former RDA not been dissolved, whichever occurs first. The EOPS and ROPS documents are subject to the review and approval of the Successor Agency's Oversight Board ("Oversight Board") and other governing entities pursuant to AB 26. Upon approval by the Oversight Board, the documents will be transmitted to the State Department of Finance ("DOF") and the County-Auditor Controller pursuant to AB 26.

There have been questions regarding the difference between the EOPS and ROPS documents. The EOPS is a universal list of all of the Former RDA's enforceable obligations payable at any time in the future, whereas each ROPS is a forward-looking list of payments that are owed toward enforceable obligations during the applicable six-month fiscal period. Only payments identified in the EOPS are allowed to be made until the first ROPS becomes operative. There

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has been additional guidance from the County Auditor-Controller and DOF regarding when the first ROPS must be considered and adopted.

The County Auditor-Controller advised in a letter on March 14, 2012 that beginning May 1, 2012, successor agencies should only make payments for items included in the ROPS approved by the Oversight Board. The DOF has advised that the Second ROPS must be filed as soon as possible but no later than May 11, 2012. That provides 10 working days for DOF review and four working days for the County Auditor-Controller to prepare to make timely payments to successor agencies and taxing agencies on June 1, 2012. It is important for the Oversight Board to take prompt action on the Initial Draft ROPS to avoid a suspension of payments from May 1, 2012 until the DOF approves the document. It is recommended that the Second ROPS also be approved as it is due no later than May 11, 2012, and combined with the Initial Draft ROPS, will provide a 12 month picture of the payments that will be made on enforceable obligations including the sources of those payments.

The initial EOPS was first prepared by the Former RDA to provide a universal list of all of the Former RDA's enforceable obligations. Health and Safety Code Section 34169(g) required the initial EOPS to list all of the enforceable obligations within the meaning of Section 34167(d).

The EOPS must provide the following information about each enforceable obligation:

- the project name associated with the obligation;
- the payee;
- a short description of the nature of the work, product, service, facility or other thing of value for which the payment is being made; and
- the amount of payments obligated to be made, by month, (initially) through December 31, 2011, subsequently replaced by the Amended and Restated EOPS for the period January 1, 2012 through June 30, 2012 caused by the "reset" of pertinent dates by the Court decision.

The ROPS is the governing document as to payments that are allowed to be made by the Successor Agency during each applicable six-month period. According to AB 26, the ROPS supersedes the annual Statement of Indebtedness, which will no longer be prepared or have any effect under California Community Redevelopment Law.

The ROPS includes the information provided in the EOPS and provides the following for each enforceable obligation within the applicable six-month period:

- the minimum payment amount,
- due dates of payments required by enforceable obligations, and
- the source of payment, such as:
 - Low and Moderate Income Housing Fund;
 - bond proceeds;
 - reserve balance;
 - administrative cost allowance;
 - the Redevelopment Property Tax Trust Fund; and
 - other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the Former RDA.

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Each ROPS also contains a line item reference (Attachment A to the ROPS) that provides a brief description of each line item and the document creating the enforceable obligation.

On April 10, 2012, the Successor Agency approved the Initial Draft ROPS, Second ROPS, and Third Amended and Restated EOPS. These documents have been transmitted to the DOF and County Auditor-Controller with the proviso that the Oversight Board would be considering these documents at their first meeting on April 25, 2012.

DISCUSSION:

The Successor Agency is designated to administer existing enforceable obligations of the Former RDA and to wind down the operations of the Former RDA, subject to the review and approval of the Oversight Board and certain government entities, including the County Auditor-Controller, the State Controller and the DOF.

AB 26 required that the County Auditor-Controller certify the initial ROPS by April 15, 2012, and to conduct or cause to be conducted an agreed-upon procedures engagement ("AUP Engagement") of each former redevelopment agency in the County by July 1, 2012. The purpose of the engagement is to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass through payment obligations to other taxing agencies, to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency, and to certify the Initial Draft ROPS. The County Auditor-Controller may charge the Redevelopment Property Tax Trust Fund for any costs incurred by the County Auditor-Controller for complying with this requirement. The County Auditor-Controller has acknowledged that it was not possible to certify the Initial Draft ROPS by the April 15 deadline, given that the certification of the Initial Draft ROPS will rely on the completion of the AUP Engagement, which is not expected to occur until close to the July 1 deadline. The Third EOPS, as amended and restated, will continue to be the governing document with respect to any payments made by the Successor Agency until the Initial Draft ROPS has been certified and finally approved.

Though it now appears these conditions cannot all be met in the necessary timeframe, AB purports that the Initial Draft ROPS is not considered valid until the following conditions have been met:

- The Initial Draft ROPS has been prepared by the Successor Agency;
- the County Auditor-Controller certifies the Initial Draft ROPS pursuant to Health and Safety Code Section 34182(a);
- the certified Initial Draft ROPS is submitted to and duly approved by the Oversight Board; and
- a copy of the approved Initial Draft ROPS is submitted to the County Auditor-Controller, the DOF and State Controller's office, and posted on the Successor Agency's internet web site.

The County Auditor-Controller's approval shall not be deemed effective for three business days, pending a request for review by the State Controller. In the event the State Controller requests a review of a County Auditor-Controller action, the State Controller shall have ten days from the

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date of his or her request to approve the County Auditor-Controller's action or return it to the County Auditor-Controller for reconsideration. Any action challenged by the State Controller shall not be deemed effective until approved by the State Controller.

The Second ROPS and subsequent ROPS documents are not subject to certification by the County Auditor-Controller through the engagement process described above.

The Second ROPS for the period July 1, 2012 - December 31, 2012 is included for review and approval since the County-Auditor Controller's preferred submittal deadline of April 15, 2012 has now passed.

Once each ROPS is approved and validated, the County Auditor-Controller will utilize the ROPS to determine the amount of property tax revenues needed to be transferred to the Successor Agency's Redevelopment Obligation Retirement Fund to meet the corresponding six-month payment schedule.

The EOPS has also been amended and restated (Third EOPS) in order to keep the EOPS consistent with the ROPS. The EOPS serves as authorization for disbursements until the Initial ROPS is certified.

The Successor Agency obligations listed on the EOPS and ROPS generally fall within six (6) categories: (1) tax allocation and parking revenue bonds, taxable or tax-exempt, with some bonds being project-specific; (2) loan, repayment, and operating agreements, including legal settlements and regulatory agreements; (3) obligations to implement public-private partnerships pursuant to Owner Participation Agreements (OPAs), Disposition and Development Agreements (DDAs), and similar financial assistance agreements; (4) agreements with contractors or consultants to perform specified tasks; (5) property management of real estate acquired by the Successor Agency; and (6) administrative costs of the Successor Agency to wind down redevelopment and manage enforceable obligations.

Each ROPS and each six-month administrative budget to be approved by the Successor Agency, subject to certification by the County Auditor-Controller and review and approval by the Oversight Board, will determine the exact amount of administrative cost allowance available to the Successor Agency for every six-month fiscal period. The administrative cost allowance for the Successor Agency is defined in Section 34171(b) as an amount that, subject to the approval of the Oversight Board, is payable from the property tax revenue of up to five percent (5%) of the property taxes allocated to the Successor Agency for the 2011-12 fiscal year and up to three percent (3%) of the property taxes allocated to the Redevelopment Obligation Retirement Fund administered by the Successor Agency for each fiscal year thereafter. The DOF has indicated in a guidance document that the payment schedules under AB 26 may include expenses for ongoing project management and construction inspection where required on specific projects, without subjecting such expenses to the cap on the administrative cost allowance.

PREVIOUS OVERSIGHT BOARD and/or SUCCESSOR AGENCY ACTION:

The Former RDA approved the original EOPS on September 13, 2011, covering the period of

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September 1, 2011 through December 31, 2011, and approved the First Amended and Restated EOPS on January 31, 2012, covering the period of January 1, 2012 through June 30, 2012. On January 10, 2012, the City Council took action to serve as the Agency's successor agency under AB 26. On February 13, 2012, the City Council adopted a resolution establishing certain policies and procedures that will govern the future operation of the Successor Agency. On February 28, 2012 the City Council, in its capacity as the Successor Agency, adopted the Second Amended and Restated EOPS and authorized the completion of the Initial Draft ROPS for timely submittal to the County Auditor-Controller pursuant to AB 26. On April 10, 2012 the Successor Agency approved the Initial Draft ROPS, the Second ROPS, and Third Amended and Restated EOPS. The April 10, 2012 approval is the item being considered by the Oversight Board in this action.

David Graham
Office of the Mayor
Originating Department

Jay Goldstone
Chief Operating Officer

OVERSIGHT BOARD RESOLUTION NUMBER OB-_____

A RESOLUTION OF THE OVERSIGHT BOARD FOR CITY OF
SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY
APPROVING THE THIRD AMENDED AND RESTATED
ENFORCEABLE OBLIGATION PAYMENT SCHEDULE AND
THE INITIAL DRAFT OF THE FIRST AND SECOND
RECOGNIZED OBLIGATION PAYMENT SCHEDULES.

WHEREAS, the former Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, in accordance with Assembly Bill x1 26 (AB 26), the Former RDA dissolved as of February 1, 2012, at which time the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), assumed the Former RDA's assets and obligations; and

WHEREAS, AB 26 provides for the appointment of a seven-member oversight board (Oversight Board) with specific duties to approve and direct certain actions of the Successor Agency pursuant to California Health and Safety Code sections 34180 and 34181; and

WHEREAS, pursuant to Resolution No. R-307378 adopted effective April 12, 2012, the City Council, acting as the board of the Successor Agency, adopted all of the following documents: (i) the Third Amended and Restated Enforceable Obligation Payment Schedule (Third EOPS), which reflects payments toward enforceable obligations during the period of time from January 1, 2012 through June 30, 2012; (ii) an updated version of the initial draft of the first Recognized Obligation Payment Schedule (ROPS 1), which also reflects payments toward enforceable obligations during the period of time from January 1, 2012 through June 30, 2012, and describes the specific source of funding for all such payments; and (iii) a draft of the second

Recognized Obligation Payment Schedule (ROPS 2), which reflects payments toward enforceable obligations during the period of time from July 1, 2012 through December 31, 2012, and describes the specific source of funding for all such payments; and

WHEREAS, California Health and Safety Code section 34177(a)(1) requires the Oversight Board to approve the Third EOPS; and

WHEREAS, California Health and Safety Code section 34177(l)(2)(B) requires the Oversight Board to approve ROPS 1 and ROPS 2.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

1. The Third EOPS is hereby approved. A copy of the Third EOPS shall be filed in the Oversight Board's records with the City Clerk for the City of San Diego (City Clerk) as Document No. D-_____.

2. ROPS 1 is hereby approved. A copy of ROPS 1 shall be filed in the Oversight Board's records with the City Clerk as Document No. D-_____.

3. ROPS 2 is hereby approved. A copy of ROPS 2 shall be filed in the Oversight Board's records with the City Clerk as Document No. D-_____.

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4. The Successor Agency shall cause written notification of the approval of the Third EOPS, ROPS 1, and ROPS 2 to be transmitted to the State Department of Finance, the State Controller's Office, and the San Diego County Auditor-Controller, and also shall post a copy of such documents on the Successor Agency's website.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on _____, 2012.

Chair, Oversight Board

ATTEST:

ELIZABETH S. MALAND
City Clerk, City of San Diego

By: _____
Deputy City Clerk