

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ADOPTING THE AMENDED AND RESTATED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34169(g) AND AUTHORIZING THE AGENCY'S EXECUTIVE DIRECTOR, OR DESIGNEE, TO CARRY OUT CERTAIN RELATED ACTIONS.

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

WHEREAS, on June 15, 2011, the State Legislature passed Assembly Bill x1 26 (AB 26) and Assembly Bill x1 27 (AB 27), and on June 28, 2011, Governor Edmund G. Brown Jr. approved AB 26 and AB 27; and

WHEREAS, Part 1.8 of AB 26 generally prevents redevelopment agencies from entering into new or amended obligations or contracts, and Part 1.85 of AB 26 eliminates redevelopment agencies and winds down their operations; and

WHEREAS, AB 27 allows redevelopment agencies to remain in existence, and to gain an exemption from the provisions of AB 26, in exchange for making substantial remittance payments on an annual basis to the local county auditor-controller; and

WHEREAS, on July 18, 2011, the California Redevelopment Association, the League of California Cities, and other entities filed a Petition for Writ of Mandate directly with the

California Supreme Court (Supreme Court), in litigation designated as Case No. S194861 (Litigation), challenging the constitutionality of AB 26 and AB 27; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final opinion in the Litigation, which upheld AB 26, invalidated AB 27, and concluded that AB 26 could be enforced independently from AB 27; and

WHEREAS, under the revised timelines established by the Supreme Court, the Agency is scheduled to be dissolved as of February 1, 2012, at which time a successor agency will administer the winding down of the Agency's affairs; and

WHEREAS, pursuant to Resolution No. R-307238 adopted effective January 12, 2012, the City Council designated the City to serve as the successor agency to the Agency and to retain the Agency's housing assets and assume the Agency's housing responsibilities, all pursuant to Part 1.85 of AB 26; and

WHEREAS, in accordance with Resolution No. R-04687 adopted effective September 13, 2011, the Agency adopted the "Enforceable Obligation Payment Schedule" (Original EOP Schedule) in accordance with California Health and Safety Code section 34169(g), which is one of the provisions in AB 26 that applies to the Agency during its continued existence; and

WHEREAS, the Original EOP Schedule listed the Agency's "enforceable obligations" as defined in California Health and Safety Code section 34167(d) and identified payments to be made toward those enforceable obligations during the period of time through December 31, 2011, consistent with the requirements of AB 26 in effect at the time of adoption; and

WHEREAS, California Health and Safety Code section 34169(g) allows the Agency to amend the Original EOP Schedule at a public meeting; and

WHEREAS, Agency staff has prepared the proposed “Amended and Restated Enforceable Obligation Payment Schedule” (Amended EOP Schedule), which includes various changes in comparison to the Original EOP Schedule, such as: (i) the reflection of payments toward enforceable obligations during the period of time from January 1, 2012 through June 30, 2012; (ii) the removal of any enforceable obligations that have been fully paid as of December 31, 2011; (iii) the provision of additional details and background information regarding certain enforceable obligations; and (iv) the addition of certain enforceable obligations deemed reasonably necessary to the orderly winding down of the Agency’s affairs; and

WHEREAS, California Health and Safety Code section 34169(g)(2) requires the Agency to transmit a copy of the Amended EOP Schedule, upon its adoption, to the San Diego County Auditor-Controller, the State Controller, and the State Department of Finance; and

WHEREAS, California Health and Safety Code section 34169(i) authorizes the State Department of Finance to review the Agency’s adoption of the Amended EOP Schedule and, if deemed appropriate, to return the Amended EOP Schedule to the Agency for consideration of requested modifications; and

WHEREAS, in accordance with California Health and Safety Code section 34177(a)(1), the City, in its capacity as the successor agency to the Agency, will consider the adoption of the Amended EOP Schedule, together with any modifications requested by the State Department of Finance, in the near future; and

WHEREAS, the Amended EOP Schedule will govern the payments to be made by the City, in its capacity as the successor agency to the Agency, until such time that the first “Recognized Obligation Payment Schedule” is deemed to be valid and effective, which is anticipated to occur by the end of Fiscal Year 2011-12; NOW, THEREFORE,

BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego, as follows:

1. The Agency finds and determines that the foregoing recitals are true and correct.
2. The Agency has received and heard all oral and written objections pertaining to this matter, and all such oral and written objections are hereby overruled.
3. The Agency hereby adopts the Amended EOP Schedule, which shall be placed on file in the office of the Agency Secretary as Document No. D-_____. The Amended EOP Schedule shall supersede the Original EOP Schedule, except that the Amended EOP Schedule shall not invalidate any payments already made by the Agency in conjunction with the Original EOP Schedule prior to the final passage of this Resolution.
4. The Agency's Executive Director, or designee, is authorized, on the Agency's behalf, to take all actions necessary and appropriate to carry out and implement the purposes of this Resolution and to fulfill all of the Agency's statutory obligations with respect to the Amended EOP Schedule, including, but not limited to, (a) causing the Amended EOP Schedule to be posted on the Agency's official website, (b) transmitting written notice of the adoption of the Amended EOP Schedule to the San Diego County Auditor-Controller, the State Controller, and the State Department of Finance, and (c) designating an Agency representative to handle any communications with the State Department of Finance in conjunction with its potential review of the Amended EOP Schedule.
5. The Agency reserves all of its legal rights and remedies with respect to the adoption and implementation of the Amended EOP Schedule. The Agency's adoption of the Amended EOP Schedule is not intended as, and shall not constitute, a waiver by the City or the

Agency of any of their rights to challenge the validity or effectiveness of all or any portion of AB 26 through administrative or judicial proceedings.

APPROVED: JAN I. GOLDSMITH, General Counsel

By Kevin Reisch
Kevin Reisch
Deputy General Counsel

KR:nja
1/26/2012
Or.Dept:Redev.Agency
RA-2012-14
PL#2011-07018

I hereby certify that the foregoing Resolution was passed by the Redevelopment Agency of the City of San Diego, at this meeting of _____.

REDEVELOPMENT AGENCY

By _____
Jeannette Santos, Deputy Secretary

Approved: _____
(date)

JERRY SANDERS, Executive Director

Vetoed: _____
(date)

JERRY SANDERS, Executive Director