ITEM 3

OVERSIGHT BOARD FOR CITY OF SAN DIEGO
REDEVELOPMENT SUCCESSOR AGENCY

DATE ISSUED: 07/13/2012

SUBJECT: Adoption of a Resolution to Approve the Third Amendment to Tolling Agreement with the County of San Diego Regarding Potential Litigation Challenging SB 863

CONTACT/PHONE NUMBER: David Graham/236-6980

DESCRIPTIVE SUMMARY OF ITEM:
Adoption of a resolution approving the third amendment to an existing tolling agreement among the County of San Diego, the Successor Agency, the City of San Diego, and Civic San Diego to suspend the statute of limitations for an additional 12 months with respect to the County's potential filing of litigation to challenge SB 863.

STAFF RECOMMENDATION:
Approve proposed action.

DISCUSSION:

1992 Tax-Sharing Agreement

In May 1992, the former Redevelopment Agency of the City of San Diego (Former RDA) and the County of San Diego (County) entered into that certain "Agreement for Cooperation between Redevelopment Agency of the City of San Diego and the County of San Diego (Centre City Redevelopment Project)" (Tax-Sharing Agreement). Under the Tax-Sharing Agreement, the Former RDA promised to pay the County a portion of the Former RDA's tax increment revenue, commonly known as contractual tax-sharing payments (or pass-through payments), on an annual basis with incremental percentage increases over the course of time. In exchange, the County agreed to restrict its expenditure of at least 40% of the tax-sharing payments to purposes set forth in the Tax-Sharing Agreement and to not legally challenge the validity of the Centre City Redevelopment Plan or the Centre City Redevelopment Project.

Senate Bill 863

In October 2010, the State Legislature enacted Senate Bill 863 (SB 863), which added section 33333.14 to the California Health and Safety Code. SB 863 eliminated the dollar limit or "cap" on the amount of tax increment to be received by the Former RDA attributable to the Centre City Redevelopment Project area (Project Area). Before the enactment of SB 863, the Former RDA had estimated that the tax increment cap for the Project Area would be exceeded in the year 2024 rather than the scheduled year of expiration of the Project Area in 2043.

In late 2010, the County asserted its position that SB 863 violates the California Constitution and is subject to legal challenge, and expressed its intent to file a lawsuit challenging SB 863 and

naming the Former RDA, the City of San Diego (City), and Centre City Development Corporation (CCDC), among others, as defendants.

Existing Tolling Agreement and Proposed Third Amendment

The County, the Former RDA, the City, and CCDC entered into a Tolling Agreement dated January 13, 2011, which allowed a six-month suspension of the statute of limitations governing the County's legal challenge, thereby affording the parties an opportunity to negotiate relating to the legal effect and consequences of SB 863 outside the context of litigation. In July 2011, and again in January 2012, the parties extended the Tolling Agreement for six additional months, without making any other substantive changes to the Tolling Agreement. The Tolling Agreement, as amended, expires in July 2012, but provides that the County has an additional sixty days, at a minimum, to commence a legal challenge concerning SB 863 after the date of expiration of the Tolling Agreement.

The County, the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), the City, and Civic San Diego (as successor to CCDC) now wish to enter into the Third Amendment to the Tolling Agreement (Third Amendment) to extend the Tolling Agreement for an additional 12 months, allowing the parties to continue to seek resolution of the issues among them without resorting to litigation. As with the two prior amendments, the Third Amendment will not make any substantive changes to the Tolling Agreement other than the time extension.

The San Diego City Council, acting on behalf of the Successor Agency and the City, approved the Third Amendment in closed session on July 10, 2012. It is uncertain, in light of restrictive language in Assembly Bill x1 26 (AB 26) and Assembly Bill 1484 (AB 1484), whether the Successor Agency has the legal authority to execute the Third Amendment without the approval of the Oversight Board and the State Department of Finance (DOF). Therefore, Successor Agency staff requests that the Oversight Board approve the Third Amendment. Upon the Oversight Board's approval, the item would be presented by Successor Agency staff to the DOF for review and approval or deemed approval in accordance with AB 26 and AB 1484 (collectively, the RDA Dissolution Laws).

Rationale for Additional Time Extension

The County and the Successor Agency agree that, as a result of the recent enactment of the RDA Dissolution Laws, the County's potential legal challenge concerning SB 863 may have been rendered moot, but cannot be rendered moot definitively at this juncture. For instance, the Successor Agency hypothetically could collect a greater aggregate amount of property taxes from the Project Area to pay enforceable obligations than otherwise would have been permitted in the absence of SB 863 and the resulting elimination of the tax increment cap for the Project Area. The County wishes to preserve the argument that any property taxes (i.e., former tax increment revenue) generated in excess of the pre-SB 863 cap on tax increment revenue should be allocated on a pro rata basis to the affected local taxing entities, including the County, and should not be allocated to the Successor Agency to pay any remaining enforceable obligations.

Successor Agency staff believes it is prudent to extend the Tolling Agreement for an additional 12 months in order to avoid potentially costly and protracted litigation over an issue that may be rendered moot in the final analysis. This approach will allow the Successor Agency to conserve its limited resources and funds for the benefit of local taxing entities, consistent with the fiscal objectives of the RDA Dissolution Laws.

It is anticipated that upcoming steps in the wind-down process of the Former RDA may shed further light on whether the County's opposition to SB 863 has been rendered moot. Successor Agency staff intends to continue monitoring this situation and to either try to persuade the County to agree not to challenge SB 863 or to reach a mutually acceptable compromise of the dispute. Any proposed written settlement of this matter will be presented by Successor Agency staff to the Oversight Board for its future consideration.

David Graham
Office of the Mayor

Jay Goldstone
Chief Operating Officer

Attachment 1: Original Tolling Agreement and Proposed Third Amendment Thereto

THOMAS E. MONTGOMERY
COUNTY COUNSEL

DEBORAH A. McCARTHY
ASSISTANT COUNTY COUNSEL

NATHAN C. NORTHUP
CLAUDIA ANZÚRES
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County of San Diego

OFFICE OF COUNTY COUNSEL

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(619) 531-4860 FAX (619) 531-6005

WRITER'S DIRECT NUMBER:
(619) 531-6259
WRITER'S E-MAIL ADDRESS:
Timothy.Barry@sdcounty.ca.gov

January 20, 2011

Christine M. Leone, Deputy City Attorney
Office of the City Attorney
1200 3rd Avenue, Suite 1100
San Diego, CA 92101

Re: *County of San Diego v. Edmund G. Brown, et al.*
SDSC Case No. 37-2011-00083855-CU-MC-CTL

Dear Ms. Leone:

Enclosed please find a copy of the fully executed Tolling Agreement in the above-entitled matter, effective January 13, 2011. Should you have any questions, please do not hesitate to contact me at the number above.

Very truly yours,

THOMAS E. MONTGOMERY, County Counsel

By Timothy Barry
TIMOTHY M. BARRY, Senior Deputy

TMB:nb
10-90541
Encl.

TOLLING AGREEMENT

THIS TOLLING AGREEMENT is made, entered into, and effective, this 13th day of January 2011 ("Effective Date") by and between the County of San Diego ("County"), the City of San Diego ("City"), the Redevelopment Agency of the City of San Diego ("Redevelopment Agency"), and the Centre City Development Corporation ("CCDC").

RECITALS

WHEREAS, the Redevelopment Agency was created by Resolution of the City Council of the City of San Diego on May 6, 1958, to alleviate conditions of urban blight in designated areas of the City; and

WHEREAS, the City of San Diego established CCDC in 1975 to carry out redevelopment activities in the Project Area located in downtown San Diego; and

WHEREAS, the Redevelopment Plan for the Centre City Redevelopment Project ("Project Plan") was adopted by the City of San Diego on May 11, 1992 (O-17767); and

WHEREAS, the Project Plan commenced on May 11, 1992, and is to terminate on May 11, 2043; and

WHEREAS, effective May 22, 1992, the Redevelopment Agency and County entered into an agreement entitled "Agreement for Cooperation between Redevelopment Agency of the City of San Diego and the County of San Diego (Centre City Redevelopment Project)" hereinafter referred to as the "Cooperation Agreement"; and

WHEREAS, the Cooperation Agreement provided, among other things, that in consideration of the Redevelopment Agency's promise to pay to County specified percentages of "Property Tax Revenue" as more specifically set forth and defined in the agreement until the Redevelopment Agency's right to receive Property Tax Revenues terminates or expires, County agreed to restrict the expenditure of such money for purposes set forth in the agreement and to forbear suit or other action challenging the validity of the Redevelopment Plan, the Project, the Project Area or the Environmental Impact Report in relation to the Project or any related matters; and

WHEREAS, the Cooperation Agreement has been amended twice; and

WHEREAS, except as expressly amended the Cooperation Agreement remained in full force and effect; and

WHEREAS, on or about October 8, 2010, the Legislature adopted Senate Bill 870, the 2010-11 Budget Act; and

WHEREAS, on or about October 8, 2010, the Governor signed the Budget Act; and

WHEREAS, on or about October 8, 2010, the Legislature adopted Senate Bill 863 entitled "An act to amend Sections 16142, 16142.1 and 51244 of, to add Section 16148 to, and to add and repeal Section 51244.3 of, the Government Code, and to add Sections 33333.14 and 33691.5 to the Health and Safety Code, relating to local government, making an appropriation therefore, and declaring the urgency thereof, to take effect immediately" (hereafter referred to as "SB 863") as a trailer bill to the Budget Act; and

WHEREAS, on or about October 19, 2010, the Governor signed SB 863; and

WHEREAS, Section 7 of SB 863 added Section 33333.14 to the Health and Safety Code which specifically eliminated the dollar limit on the receipt of tax increment for the Centre City Redevelopment Project and authorized the Redevelopment Agency to receive the tax increment revenue from the Centre City Redevelopment Project without a dollar limit ; and

WHEREAS, County believes that SB 863 violates the California Constitution and is subject to legal challenge and/or other appropriate claims and defenses to County's claims; and

WHEREAS, City, Redevelopment Agency, and CCDC believe that SB 863 is constitutional and is not subject to legal challenge; and

WHEREAS, the parties to this Agreement believe it will be mutually beneficial to stay the prosecution of a potential legal action ("Legal Action") by County against City, Redevelopment Agency, and CCDC in its entirety to allow for negotiations between the parties relating to the legal effect and consequences of SB 863 as it pertains to the County, the Redevelopment Agency and CCDC.

THEREFORE, County, City, Redevelopment Agency, and CCDC for and in consideration of the promises, covenants, and considerations herein expressed and based upon the Recitals herein, agree as follows:

STIPULATION

1. The parties agree that the running of any statute of limitations, or other limitations period with respect to the Legal Action shall be tolled and suspended from the Effective Date of this Agreement through and including the expiration date (hereinafter the "Tolling Period").

2. City, Redevelopment Agency, and CCDC agree that, during the Tolling Period, County need not file any claim or administrative or judicial action challenging SB 863.

3. Unless otherwise agreed to in writing by the parties, this Agreement shall terminate six months and one day from the Effective Date of this Agreement.

4. During the term of this Agreement, any party may terminate this Agreement without cause upon fifteen (15) days written notice to all other parties.

5. The parties agree that the applicable statutes of limitations and other limitations periods tolled and suspended by this Agreement shall resume running again upon the expiration of this Agreement, whether by notice or on its own volition, but that at a minimum, the County shall have an additional sixty (60) days after expiration to commence any legal action challenging SB 863.

6. The parties agree that this Agreement shall not in any manner revive any claims or causes of action that were barred prior to the Effective Date of this Agreement by any statute of limitations or other limitations period.

7. This Agreement is not intended, and shall not be construed, as an admission by any party that any other party has valid claims or defenses.

8. This Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of California.

9. The parties agree to preserve all documents, records, and other evidence or potential evidence within their care, custody, possession or control, that relate in any way to any claims.

10. Each party warrants that it has carefully reviewed, and understands, every part of this Agreement, that such party has entered into this Agreement voluntarily, and that such party has not made any promises, representations, or inducements other than those contained herein.

11. Each party signing this Agreement represents and warrants that it has the authority to do so and that the signature which appears below binds such party, and its respective officers, agents, and attorneys to the terms of this Agreement.

12. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and any prior oral or written statements concerning this subject are merged herein for all purposes and have no further force or effect.

13. This Agreement may only be amended by written agreement of the parties.

14. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing (including telex, telecopy and telegraphic communications) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated with electronic confirmation or mailed by United States mail (postage prepaid), registered or certified, return receipt requested, addressed as follows:

COUNTY:	Thomas E. Montgomery, County Counsel, County of San Diego 1600 Pacific Highway, Rm. 355 San Diego, CA 92101
CITY:	Jan Goldsmith City of San Diego 1200 Third Avenue, Suite 1600 San Diego, CA 92101
REDEVELOPMENT AGENCY:	Jay M. Goldstone Redevelopment Agency of the City of San Diego 1200 Third Avenue, 14th floor San Diego, CA 92101
CCDC:	Frank Alessi Centre City Development Corporation 401 B Street, 4th floor San Diego, CA 92101

15. This Agreement may be executed in one or more counterparts, and each such counterpart upon execution and delivery shall be deemed a complete original.

DATED: 1/18/11

THOMAS E. MONTGOMERY, County Counsel

By _____
TIMOTHY M. BARRY, Senior Deputy

DATED: 1/13/11

CITY OF SAN DIEGO

By _____
JAN GOLDSMITH, City Attorney

DATED: January 14, 2011

REDEVELOPMENT AGENCY FOR THE CITY OF SAN DIEGO

By _____
JAY M. GOLDSTONE, Chief Operating Officer

DATED:

CENTRAL CITY DEVELOPMENT CORPORATION

By _____
FRANK ALESSI, Executive Vice President and Chief Financial Officer

DATED:

REDEVELOPMENT AGENCY FOR THE CITY OF SAN DIEGO

By_____
JAY M. GOLDSTONE, Chief Operating Officer

DATED: 1/13/11

CENTRAL CITY DEVELOPMENT CORPORATION

By_____
FRANK ALESSI, Executive Vice President and Chief Financial Officer

CITY DIVISION
11 JAN 13 AM 8:10

THIRD AMENDMENT TO TOLLING AGREEMENT

THIS THIRD AMENDMENT TO TOLLING AGREEMENT is made, entered into, and effective, this __ day of July 2012 ("Effective Date") by and between the County of San Diego ("County"), the City of San Diego ("City"), the City of San Diego, solely in its capacity as the designated successor agency to the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic ("Redevelopment Agency"), and Civic San Diego, formerly the Centre City Development Corporation ("CCDC").

RECITALS

WHEREAS, the former Redevelopment Agency ("former RDA") was created by Resolution of the City Council of the City of San Diego on May 6, 1958, to alleviate conditions of urban blight in designated areas of the City; and

WHEREAS, the City of San Diego established CCDC in 1975 to carry out redevelopment activities in the Project Area located in downtown San Diego; and

WHEREAS, the Redevelopment Plan for the Centre City Redevelopment Project ("Project Plan") was adopted by the City of San Diego on May 11, 1992 (O-17767); and

WHEREAS, the Project Plan commenced on May 11, 1992, and is to terminate on May 11, 2043; and

WHEREAS, effective May 22, 1992, the former RDA and County entered into an agreement entitled "Agreement for Cooperation between Redevelopment Agency of the City of San Diego and the County of San Diego (Centre City Redevelopment Project)" hereinafter referred to as the "Cooperation Agreement"; and

WHEREAS, the Cooperation Agreement provided, among other things, that in consideration of the former RDA's promise to pay to County specified percentages of "Property Tax Revenue" as more specifically set forth and defined in the agreement until the former RDA's right to receive Property Tax Revenues terminates or expires, County agreed to restrict the expenditure of such money for purposes set forth in the agreement and to forbear suit or other action challenging the validity of the Redevelopment Plan, the Project, the Project Area or the Environmental Impact Report in relation to the Project or any related matters; and

WHEREAS, the Cooperation Agreement has been amended twice; and

WHEREAS, except as expressly amended the Cooperation Agreement remained in full force and effect; and

WHEREAS, on or about October 8, 2010, the Legislature adopted Senate Bill 870, the 2010-11 Budget Act; and

WHEREAS, on or about October 8, 2010, the Governor signed the Budget Act; and

WHEREAS, on or about October 8, 2010, the Legislature adopted Senate Bill 863 entitled "An act to amend Sections 16142, 16142.1 and 51244 of, to add Section 16148 to, and to add and repeal Section 51244.3 of, the Government Code, and to add Sections 33333.14 and 33691.5 to the Health and Safety Code, relating to local government, making an appropriation therefore, and declaring the urgency thereof, to take effect immediately" (hereafter referred to as "SB 863") as a trailer bill to the Budget Act; and

WHEREAS, on or about October 19, 2010, the Governor signed SB 863; and

WHEREAS, Section 7 of SB 863 added Section 33333.14 to the Health and Safety Code which specifically eliminated the dollar limit on the receipt of tax increment for the Centre City Redevelopment Project and authorized the Redevelopment Agency to receive the tax increment revenue from the Centre City Redevelopment Project without a dollar limit ; and

WHEREAS, County believes that SB 863 violates the California Constitution and is subject to legal challenge and/or other appropriate claims and defenses to County's claims; and

WHEREAS, City, Redevelopment Agency, and CCDC believe that SB 863 is constitutional and is not subject to legal challenge; and

WHEREAS, the parties entered into a prior Tolling Agreement effective January 13, 2011, tolling and suspending any statute of limitations, or other limitation period with respect to the prosecution of a potential legal action ("Legal Action") by County against City, Redevelopment Agency, and CCDC in its entirety to allow for negotiations between the parties relating to the legal effect and consequences of SB 863 as it pertains to the County, Redevelopment Agency and CCDC; and

WHEREAS, effective July 11, 2011, the parties entered into a First Amendment to Tolling Agreement extending the original Tolling Agreement to January 12, 2012; and

WHEREAS, effective January 12, 2012, the parties entered into a Second Amendment to Tolling Agreement extending the original Tolling Agreement to July 13, 2012; and

WHEREAS, the parties to this Third Amendment to Tolling Agreement believe it will be mutually beneficial to again extend the original Tolling Agreement.

THEREFORE, County, City, Redevelopment Agency, and CCDC for and in consideration of the promises, covenants, and considerations herein expressed and based upon the Recitals herein, agree as follows:

STIPULATION

1. The parties agree that the running of any statute of limitations, or other limitations period with respect to the Legal Action shall continue to be tolled and suspended from the Effective Date of the original Tolling Agreement through and including the expiration date (hereinafter the "Tolling Period").

2. City, Redevelopment Agency, and CCDC agree that, during the Tolling Period, County need not file any claim or administrative or judicial action challenging SB 863.

3. Unless otherwise agreed to in writing by the parties, this Third Amendment to Tolling Agreement shall terminate twelve months and one day from the Effective Date.

4. Any party may terminate this Third Amendment to Tolling Agreement without cause upon fifteen (15) days written notice to all other parties.

5. The parties agree that the applicable statutes of limitations and other limitations periods tolled and suspended herein shall resume upon expiration of this Third Amendment to Tolling Agreement, whether by notice or on its own volition, but that at a minimum, the County shall have an additional sixty (60) days after expiration to commence any legal action challenging SB 863.

6. The parties agree that this Third Amendment to Tolling Agreement shall not in any manner revive any claims or causes of action that were barred prior to the Effective Date of the original Tolling Agreement by any statute of limitations or other limitations period.

7. This Third Amendment to Tolling Agreement is not intended, and shall not be construed, as an admission by any party that any other party has valid claims or defenses.

8. This Third Amendment to Tolling Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of California.

9. The parties agree to preserve all documents, records, and other evidence or potential evidence within their care, custody, possession or control, that relate in any way to any claims.

10. Each party warrants that it has carefully reviewed, and understands, every part of this Third Amendment to Tolling Agreement, that such party has entered into this

Third Amendment to Tolling Agreement voluntarily, and that such party has not made any promises, representations, or inducements other than those contained herein.

11. Each party signing this Third Amendment to Tolling Agreement represents and warrants that it has the authority to do so and that the signature which appears below binds such party, and its respective officers, agents, and attorneys to the terms of this Third Amendment to Tolling Agreement.

12. This Third Amendment to Tolling Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and any prior oral or written statements concerning this subject are merged herein for all purposes and have no further force or effect.

13. This Third Amendment to Agreement may only be amended by written agreement of the parties.

14. All notices, requests, demands, and other communications required or permitted under this Third Amendment to Tolling Agreement shall be in writing (including telex, telecopy and telegraphic communications) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, telecommunicated with electronic confirmation or mailed by United States mail (postage prepaid), registered or certified, return receipt requested, addressed as follows:

COUNTY:	Thomas E. Montgomery County Counsel, County of San Diego 1600 Pacific Highway, Rm. 355 San Diego, CA 92101
CITY:	Jan Goldsmith City Attorney, City of San Diego 1200 Third Avenue, Suite 1600 San Diego, CA 92101
REDEVELOPMENT AGENCY:	Jay M. Goldstone Redevelopment Agency of the City of San Diego 1200 Third Avenue, 14th Floor San Diego, CA 92101
CCDC:	Frank Alessi Centre City Development Corporation 401 B Street, 4th Floor San Diego, CA 92101

15. This Third Amendment to Tolling Agreement may be executed in one or more counterparts, and each such counterpart upon execution and delivery shall be deemed a complete original.

DATED: 7/11/12

THOMAS E. MONTGOMERY, County Counsel

By _____
WILLIAM A. JOHNSON, JR., Senior Deputy

DATED:

CITY OF SAN DIEGO

By _____
JAN GOLDSMITH, City Attorney

DATED:

CITY OF SAN DIEGO, SOLELY IN ITS CAPACITY AS THE DESIGNATED SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY FOR THE CITY OF SAN DIEGO, A FORMER PUBLIC BODY, CORPORATE AND POLITIC

By _____
JAY M. GOLDSTONE, Chief Operating Officer

DATED:

CIVIC SAN DIEGO, a nonprofit public benefit corporation, formerly known as Centre City Development Corporation

By _____
FRANK ALESSI, Executive Vice President and Chief Financial Officer

OVERSIGHT BOARD RESOLUTION NUMBER OB-2012-17

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING THE THIRD AMENDMENT TO THE TOLLING AGREEMENT WITH THE COUNTY OF SAN DIEGO REGARDING POTENTIAL LITIGATION CHALLENGING SB 863

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; 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, in October 2010, the State Legislature enacted Senate Bill 863 (SB 863), which added section 33333.14 to the California Health and Safety Code, eliminating the dollar limit or "cap" on the Former RDA's receipt of tax increment generated from the Centre City Redevelopment Project area, administered by Centre City Development Corporation (CCDC) on the Former RDA's behalf; and

WHEREAS, in late 2010, the County of San Diego (County) asserted its position that SB 863 violates the California Constitution and is subject to legal challenge, and expressed its intent to file a lawsuit challenging SB 863 and naming the Former RDA, the City of San Diego (City), and CCDC, among others, as defendants; and

WHEREAS, the County, the Former RDA, the City, and CCDC entered into a Tolling Agreement dated January 13, 2011, which allowed a six-month suspension of the statute of limitations governing the County's legal challenge, thereby affording the parties an opportunity

to negotiate relating to the legal effect and consequences of SB 863 outside the context of litigation; and

WHEREAS, in July 2011, and again in January 2012, the parties extended the Tolling Agreement for six additional months, without making any other substantive changes to the Tolling Agreement; and

WHEREAS, the Tolling Agreement, as amended, expires in July 2012, but provides that the County has an additional sixty days, at a minimum, to commence a legal challenge concerning SB 863 after the date of expiration of the Tolling Agreement; and

WHEREAS, the County, the Successor Agency, the City, and Civic San Diego (as successor to CCDC) now wish to enter into the Third Amendment to the Tolling Agreement to extend the Tolling Agreement for an additional 12 months, allowing the parties to continue to seek resolution of the issues among them without resorting to litigation.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board that the Third Amendment to the Tolling Agreement is hereby approved.

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

_____

Chair, Oversight Board