ITEM 4

OVERSIGHT BOARD FOR CITY OF SAN DIEGO
REDEVELOPMENT SUCCESSOR AGENCY

DATE ISSUED: 09/11/2012

SUBJECT: Report from the Successor Agency regarding request for authorization to approve refinancing, loan modifications, loan subordinations, short sales, and foreclosures related to affordable housing loans and associated security interests, and to negotiate a reduced principal balance, reduced interest, or repayment terms of affordable housing loans.

CONTACT/PHONE NUMBER: David Graham/236-6980

DESCRIPTIVE SUMMARY OF ITEM:
Adoption of a resolution:
Authorizing the Successor Agency to approve refinancing, loan modifications, loan subordinations, short sales and foreclosures related to loans funded from the Low and Moderate Income Housing Fund and associated security interests, and to negotiate a reduced principal balance, interest balance, or repayment terms of such loans, and to execute all related documents.

STAFF RECOMMENDATION:
Approve proposed action.

DISCUSSION:

Background

The Successor Agency is in the process of winding down the operations of the former Redevelopment Agency of the City of San Diego ("Former RDA") in accordance with Assembly Bill xl 26 ("AB 26"), enacted on June 28, 2011, and Assembly Bill 1484 ("AB 1484"), enacted on June 27, 2012 (collectively, the "Dissolution Laws"). Section 34176(a) of the Dissolution Laws allows the entity assuming the role of the Successor Housing Entity to retain the housing assets and functions previously performed by the Former RDA, excluding any unencumbered amounts on deposit in the Low and Moderate Income Housing Fund. On January 10, 2012, the City Council designated the City of San Diego ("City") to serve as the Successor Agency to the Former RDA for purposes of winding down the Former RDA's operations, and to serve as the Successor Housing Entity by retaining the Former RDA's housing assets and assuming the Former RDA's housing responsibilities.

Under Health and Safety Code Section 34176(e), "housing asset" includes, among other things:

> (1) Any real property, interest in, or restriction on the use of real property . . . that were acquired for low- and moderate-income housing purposes . . . .
>
> (3) Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low- or moderate-income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

To date, the Successor Agency has not transferred any housing assets to the City in its capacity as the Successor Housing Entity. However, this transfer is expected to occur soon, subject to the approval of the Oversight Board and the State Department of Finance (DOF). After the Oversight Board and the DOF have approved the transfer of housing assets, Successor Agency staff will coordinate the transfer of those assets from the Successor Agency to the City as Successor Housing Entity.

Per AB 1484, all non-property assets transferred to the Successor Housing Entity shall be maintained in a separate account known as the Low and Moderate Income Housing Asset Fund. All revenues generated from the housing assets are to be used for the purposes of maintaining, producing, preserving or improving affordable housing.

Until the transfer is completed, the Successor Agency is responsible for affordable housing assets that have accumulated through efforts of the Former RDA to provide housing for low- and moderate-income families. This request is for authorization to take certain actions related to certain housing assets, rather than having to bring each request to the Oversight Board for approval. These actions are related only to housing assets that will be transferred to the Successor Housing Entity. Once in the Successor Housing Entity's possession, the housing assets will be retained in a separate financial account as required by the Dissolution Laws, and any proceeds from the housing assets will be held and expended by the Successor Housing Entity. Thus, these actions will not have any adverse impact on the financial interests of the Successor Agency or the other taxing entities represented by the members of the Oversight Board.

The efforts of the Former RDA to provide affordable housing included providing loans of Low and Moderate Income Housing Funds to developers for use in developing affordable housing. Occasionally, Successor Agency staff will receive requests from borrowers of such affordable housing loans to approve subordination to a new loan for the purposes of refinancing. The desire to refinance is typically motivated by more favorable interest rates or loan terms, without an increase to the primary loan amount. In many instances, the Successor Agency is a participant in the residual receipts of the cash flow from the financed projects and benefits from more favorable terms achieved on the priority liens. Agreeing to such requests requires modification of the Successor Agency's loan and execution of subordination agreements.

A recent example involves the 54-unit Knox Glen Townhomes, a multi-family rental development located in southeastern San Diego and financed with a Former RDA loan of $150,000 in 1996, funding from the San Diego Housing Commission, and other lenders in a priority position. The current owners, Housing Development Partners of San Diego, wish to refinance the primary loan to take advantage of lower interest rates and to provide additional funds for needed repairs and improvements, while maintaining the affordability of the homes for low-income families. The Successor Agency loan agreement provisions allow for approval of other financing including increases in the total amount of the senior loans. In this instance the refinancing request has legitimate business reasons and will not change the repayment obligation or the terms of the affordability.

Efforts of the Former RDA to provide affordable housing also included affordable housing assistance programs including the Housing Enhancement Loan Program (HELP Program), the Home in the Heights Homebuyer Assistance Program, the southeastern San Diego First-Time Homebuyers Program and the downtown First-Time Homebuyers Program. These programs provided low interest down payment loans to low- and moderate-income home purchasers and low interest and forgivable loans to low- and moderate-income homeowners for health and safety, energy efficiency, water savings, exterior and landscaping improvements. Homes assisted have promissory notes, deeds of trust and covenants recorded in the Former RDA's favor to memorialize the loan terms and deed restrictions for owner occupancy by low- and moderate-income families.

The Successor Agency housing assets have, in some cases, been impacted by defaulting borrowers due to mortgage failures and other causes in the 2008-2012 financial crisis. The preferred outcomes to foreclosure in these instances include the owner's ability to negotiate a reduced principal balance, interest balance, or repayment terms or a short sale of the property. A renegotiated loan means that the owner can stay in the home but at a reduced cost. A short sale is a sale of the home in which the proceeds from selling the property will fall short of the balance of debts secured by liens, including those in the deed restrictions that were part of the Former RDA's assistance programs, against the property; given that the property owner cannot afford to repay the liens' full amounts, the lien holders agree to release their lien on the real estate and accept less than the amount owed on the debt. Any unpaid balance owed to the creditors is known as a deficiency. Short sale agreements do not necessarily release borrowers from their obligations to repay any deficiencies of the loans, unless specifically agreed to between the parties.

A renegotiation of the mortgage with the current owner or a short sale are considered preferred alternatives to foreclosure in that they mitigate additional fees and costs to both the creditor and borrower and tend to cause less negative impact on property values and the surrounding neighborhood. The loans in the affordable housing programs are forgivable under various terms and subordinate to the primary mortgage, thus approval of a renegotiated mortgage or a short sale ordinarily will have no actual financial consequence to the Successor Agency and is likely to be, in balance, positive to property values when compared to an alternative default and foreclosure. In the worst case scenario, the Successor Agency could also be asked to approve foreclosures. In these cases, the Successor Agency would attempt to negotiate favorable terms for the foreclosure, including sale of the property to another low- or moderate-income homeowner, or sale to an owner who will use the property as a primary residence rather than an investor.

In response to the numerous short sale requests due to the declining property values, the Former RDA developed policies and procedures for short sale requests (see attached Short Sale Policy and Procedures Manuscript dated May 20, 2011). This policy provides for preservation of the home's affordability, the maximum feasible return of the Former RDA's loan balance, and prevents speculative buying or cash out proceeds to the seller. The policy has been utilized for past short sale requests and would be used by the Successor Agency as a basis for future short sale requests.

The Successor Agency recently received a request for a short sale approval for a property in the Smart Corner Condominiums located in East Village. The Former RDA had provided down payment assistance and an affordable promissory note for the homeowner, who had a reduction in income, family medical issues and a resulting increase in family size. The homeowner can no longer afford to live in the home, and the studio apartment will not accommodate the larger family size. In this instance, the short sale would provide for a partial payment of the Successor Agency's loan and a write off of the balance.

The Former RDA's loans to low-and-moderate income First-Time Homebuyers have also been requested to be subordinated for homeowners to refinance their primary mortgages, taking advantage of current reduced interest rates and reducing monthly payments. The Former RDA's loans are subordinated to the original mortgage and the new lenders request Successor Agency's approval of such refinancing transactions. A recent request has been received from a borrower to lower their first deed of trust interest rate. The Successor Agency has a second deed of trust to secure performance of the affordability covenants only, with no dollar amount associated. As in many cases, this current request would not reduce the Successor Agency's affordability covenants and would not provide any cash proceeds to the homeowner.

While the Successor Agency is responsible for responding to these requests for refinancing, loan modifications, loan subordinations, short sales, and foreclosures related to affordable housing loans and associated security interests, and renegotiation terms of those loans, these loans will soon be transferred to the Housing Successor Entity as housing assets. In the interim, the Successor Agency would like authorization to respond to these requests without having to bring each one before the Oversight Board, since these actions will not have any adverse impact on the Successor Agency's or the other taxing entities' financial interests.

This request is one of several that will streamline the process for Successor Agency actions required under the Dissolution Laws. By obtaining this Oversight Board authorization, the Successor Agency can avoid an overly burdensome, costly and time consuming implementation process and minimize risk of failure to meet its contractual responsibilities.

Conclusion

The Oversight Board is respectfully requested to authorize the Successor Agency to approve refinancing, loan modifications, loan subordinations, short sales and foreclosures related to loans funded from the Low and Moderate Income Housing Fund and associated security interests, and to negotiate a reduced principal balance, interest balance, or repayment terms of such loans, and to execute all related documents.

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David Graham
Office of the Mayor

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Jay Goldstone
Chief Operating Officer

Attachment: Short Sale Policy and Procedures Manuscript dated May 20, 2011

MEMORANDUM

DATE: May 20, 2011

TO: Distribution

FROM: Janice L. Weinrick, Deputy Executive Director, Redevelopment Agency

SUBJECT: Short Sale Policy and Procedures Manuscript for Housing Enhancement Loan Program and Home in the Heights Homebuyer Assistance Program

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Due to current market conditions and declining property values, there has been an increase in demand for short sale requests for properties encumbered by a lien per either the Housing Enhancement Loan Program (HELP) or the Home in the Heights Homebuyer Assistance Program (HITH). This memo establishes the policy and procedures manuscript for short sales requested by participants of either program or their senior lienholders.

BACKGROUND ON REDEVELOPMENT AGENCY PROGRAMS

Housing Enhancement Loan Program

HELP was created to increase, improve, and preserve the supply of housing occupied by persons and families of low and moderate income. HELP provides forgivable loans to assist residents with enhancing the homes that they own. In turn, these home improvements result in many benefits to the community, including the elimination of blight. HELP loans are funded by redevelopment project area housing set-aside funds and are issued under terms including, but not limited to, the following:

- Participants must have a gross household income that does not exceed 100 percent of the Area Median Income (AMI);
- Participants must own and live in the home that is improved; and
- Loans are forgiven over a 10-year period.

Home in the Heights Homebuyer Assistance Program

The Redevelopment Agency created HITH to make first-time homeownership more accessible and affordable to low- and moderate-income persons seeking to reside within the City Heights community by making available subordinate loans (i.e., silent second mortgage loans) to qualified participants. Each loan is evidenced by a promissory note and secured by a deed of trust recorded against the subject property and is issued under terms including, but not limited to, the following:

- Participants must have a gross household income that does not exceed 100 percent of the AMI;
- Participants must live in the home that is purchased; and
- Loans are forgiven over a 20-year period.

SHORT SALE POLICY

The Redevelopment Agency seeks to preserve, to the maximum extent practicable, its interest in assisting low- and moderate-income homeowners. To that effect, the Redevelopment Agency shall agree to short sales upon the satisfaction of the following conditions:

1. Buyer purchasing the subject property must reside in the property (i.e., buyer may not be an investor);
2. Buyer may not receive a credit or similar benefit from the sale;
3. Buyer should be certified as a low- or moderate-income household, as defined by California Redevelopment Law;
4. Seller may not receive cash-out proceeds from the sale; and
5. Senior lienholder must record a Notice of Default or the like prior to the sale to give adequate notice to the Redevelopment Agency of its options.

The Redevelopment Agency reserves the right to impose additional conditions, to modify the aforementioned conditions or to grant exception to the above conditions on a case-by-case basis before agreeing to a short sale.

REQUIRED DOCUMENTS

If any current homeowner of a property with a lien issued by the Redevelopment Agency under either the HELP or HITH program requests a short sale, the following documentation shall be provided to the Redevelopment Agency or its agent prior to final approval of any short sale:

1. Projected sales price and closing dates
2. Copy of Multiple Listing Service (MLS) listing
3. Copies of all sales contracts, including all amendments and addendums, fully executed
4. Copy of first lender approval of short sale
5. Hardship letter signed and dated by owner
6. All current bank or other asset statements covering most recent 60-day period
7. All current income documentation, i.e., W-2 form for most recent year, current pay stubs covering full 1-month period, 1040 Federal Tax Returns for most recent two years, and all schedules
8. Estimated HUD-1 with all fees and costs associated with sale
9. Preliminary Title Report

10. Broker Price Opinion (BPO) with at least three comparables or Copy of Appraisal (within 90 days of transaction)
11. Estimated HUD-1 must have percentage of loan amount that will be paid to Redevelopment Agency for all liens owed to Redevelopment Agency
12. Copy of HELP agreement between owner and Redevelopment Agency, if applicable.

All information must be supplied prior to any request for review. Review may take up to 30 days and will not be considered if all documentation and all requests are not satisfied.

Send all correspondence to:

City of San Diego Redevelopment Agency
Attention: Michele St. Bernard
1200 Third Avenue, Suite 1400, MS 56D
San Diego, CA 92101-4110
(619) 236-6531 | Telephone
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5. Dee Sodano, Assistant Vice President of Lending, Community HousingWorks

OVERSIGHT BOARD RESOLUTION NUMBER OB-2012-26

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY AUTHORIZING THE SUCCESSOR AGENCY TO APPROVE REFINANCING, LOAN MODIFICATIONS, LOAN SUBORDINATIONS, SHORT SALES, AND FORECLOSURES RELATED TO AFFORDABLE HOUSING LOANS, AND TO NEGOTIATE A REDUCED PRINCIPAL BALANCE, REDUCED INTEREST, OR REPAYMENT TERMS OF AFFORDABLE HOUSING LOANS

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, before the Former RDA's dissolution, the City Council adopted Resolution No. R-307238 effective January 12, 2012, designating the City to serve as the successor agency to the Former RDA (Successor Agency) pursuant to California Health and Safety Code section 34173(d)(1), and further designating the City to serve as the successor housing entity to the Former RDA (Successor Housing Entity) for purposes of performing the Former RDA's housing functions, retaining the Former RDA's housing assets, and assuming the Former RDA's housing responsibilities pursuant to California Health and Safety Code section 34176(a)(1); and

WHEREAS, the Successor Agency is winding down the Former RDA's affairs in accordance with AB 26, enacted on June 28, 2011, and Assembly Bill 1484 (AB 1484), enacted on June 27, 2012 (collectively, the Dissolution Laws); and

WHEREAS, California Health and Safety Code section 34176(d) requires the Successor Housing Entity to create a new, separate fund, known as the Low and Moderate Income Housing

Asset Fund (Housing Asset Fund), for purposes of retaining any encumbered affordable housing funds transferred from the Successor Agency and any funds generated in the future from the housing assets as defined in California Health and Safety Code Section 34176(e) ("Housing Assets"); and

WHEREAS, the City Council adopted two companion resolutions, designated as Resolution No. R-307599 and Resolution No. R-307600, both effective July 31, 2012, approving the Successor Agency's execution and recording of the appropriate conveyance instruments, including quitclaim deeds and assignment and assumption agreements, to accomplish the transfer of the Housing Assets to the Successor Housing Entity, and also authorizing the establishment of the Housing Asset Fund within the City's treasury; and

WHEREAS, the transfer of Housing Assets from the Successor Agency to the Housing Successor Entity is expected to occur soon, subject to the approval of the Oversight Board and the State Department of Finance; and

WHEREAS, until the transfer of the Housing Assets is completed, the Successor Agency is responsible for management of the Housing Assets; and

WHEREAS, the Successor Agency now seeks authorization from the Oversight Board to take certain actions related to certain Housing Assets to avoid having to bring each action to the Oversight Board for approval since the actions are related only to Housing Assets that will be transferred to the Housing Successor Entity and will not have any adverse impact on the financial interests of the Successor Agency or the other taxing entities represented by the members of the Oversight Board; and

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board that the Successor Agency is authorized to approve refinancing, loan modifications, loan subordinations, short sales, and foreclosures related to loans funded from the Low and Moderate Income

Housing Fund and associated security interests, and to negotiate a reduced principal balance, interest balance, or repayment terms of such loans, and to execute all related documents.

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

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Chair, Oversight Board