



## THE CITY OF SAN DIEGO

DATE ISSUED: April 4, 2012 REPORT NO: 12-030

ATTENTION: Honorable President and Members of the City Council  
Docket of April 10, 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 Amended EOPS")

COUNCIL DISTRICTS: 1, 2, 3, 4, 5, 6, 7, 8

STAFF CONTACT: David Graham 236-2980, Sarah Mayen 236-6852

REFERENCE: February 28, 2012 Report to City Council RTC-12-014

\*\*This item is being presented to the City Council in its capacity as the board of the local redevelopment successor agency, officially known as the City of San Diego, solely in its capacity as the designated successor agency of the Redevelopment Agency of the City of San Diego, a former public body, corporate and politic ("Successor Agency").

**REQUESTED ACTION:** Should the Successor Agency approve 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, and authorize the submittal of these documents to the San Diego County Auditor-Controller ("County Auditor-Controller") pursuant to Assembly Bill x1 26 ("AB 26")?

**STAFF RECOMMENDATION:** It is recommended that the Successor Agency approve the requested actions.

**SUMMARY:** 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. According to AB 26, the ROPS and the EOPS supersede the annual Statement

of Indebtedness, which will no longer be prepared or have any effect under California Community Redevelopment Law.

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.

#### 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 State Department of Finance ("DOF").

The referenced February 28, 2012 Report to City Council RTC-12-014 provides detailed discussions related to:

- Assembly Bills 26 and 27, associated litigation and the resulting California Supreme Court decision;
- the process for dissolution of redevelopment agencies and associated time frames;
- the responsibilities of successor agencies;
- enforceable obligations; and
- the differences between the EOPS and the ROPS.

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.

The February 28, 2012 staff report and presentation informed the City Council that the complete version of the Initial Draft ROPS was not available for the City Council's review and approval at that time due to the significant amount of work associated with City staff's conversion of EOPS data to the County Auditor-Controller's preferred template for the ROPS (received on February 15, 2012) and the addition of information related to the source of payment for each enforceable obligation. Staff prepared and submitted the Initial Draft ROPS to the County Auditor-Controller on March 1, 2012.<sup>1</sup>

The transmittal memo to the County Auditor-Controller stated that the Initial Draft ROPS would be submitted to the City Council for review and approval and that any revisions resulting from that action would be transmitted immediately but in the meantime, to please proceed with the certification process so that there are no unnecessary delays in completion of the certification.

<sup>1</sup> A number of corrections and adjustments have been made to the Initial Draft ROPS since this document was forwarded to the County Auditor-Controller on March 1, 2012. The Initial Draft ROPS attached to this staff report includes these revisions. A copy of the revised document has been provided to the County Auditor-Controller, and she is being advised regarding the specific revisions to the Initial Draft ROPS.

AB 26 requires 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 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 is very unlikely that the initial ROPS can be certified by the April 15 deadline, given that the certification of the initial ROPS will rely on the completion of the AUP Engagement, which is not expected to occur until close to the July 1 deadline. The 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.

The ROPS is not considered valid until the following conditions have been met:

- a draft ROPS is prepared by the Successor Agency;
- the County Auditor-Controller certifies the initial ROPS pursuant to Section 34182(a);
- the certified ROPS is submitted to and duly approved by the Oversight Board; and
- a copy of the approved 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 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 attached for review and approval in order to meet the County-Auditor Controller’s preferred submittal deadline of April 15, 2012.

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 Third Amended EOPS has also been prepared in order to keep the EOPS consistent with the ROPS. The EOPS serves as authorization for disbursements until the Initial ROPS is certified.

#### FISCAL CONSIDERATIONS:

The fiscal impact to the Successor Agency is dependent on the review and potential challenge of the Third Amended EOPS and the ROPS documents. AB 26 limits the “administrative cost allowance” available to the Successor Agency. The actual level of funds that the City may utilize in fulfilling its role as the Successor Agency will not be known until the County Auditor-Controller, Oversight Board, DOF, and State Controller review and potentially challenge items

listed in the Third Amended EOPS and the Initial Draft ROPS, and until any such challenge is finally resolved.

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.

Any costs to the Successor Agency beyond those allowed by AB 26 would impact the City's general fund. These costs could be offset by increased property tax revenues distributed to the City, given that a portion of the tax increment revenue previously allocated to the Former RDA will be reallocated to the City and other local taxing entities as general property taxes, to the extent that the Successor Agency does not need the continued property tax revenue in order to pay enforceable obligations. It is anticipated that the City will receive approximately 17% of the general property taxes that are reallocated to local taxing entities in accordance with AB 26.

In advance of the Former RDA's approval of the First Amended and Restated EOPS, the Office of the City Attorney issued a memorandum dated January 27, 2012, explaining potential risks to the City's general fund associated with actions to be taken and payments to be made by the Successor Agency.

ENVIRONMENTAL REVIEW: The proposed action is not a "project" within the meaning of the California Environmental Quality Act ("CEQA"), specifically CEQA Guidelines section 15378(b)(4)-(5), and thus is not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3). The approval of the Initial Draft ROPS, the Second ROPS and the Third Amended EOPS are fiscal activities that relate to the future administration of redevelopment operations and are being conducted in order to comply with the provisions of AB 26. The approval of these documents will not result in the commitment to any new, specific project that may cause a physical change in the environment.

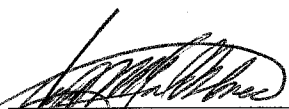
PREVIOUS AGENCY and/or COUNCIL ACTION: On July 18, 2011, the City Council introduced an Opt-In Ordinance pursuant to AB 27, whereby the City commits to utilize solely redevelopment funds to make annual payments to the County Auditor-Controller in exchange for the Agency's exemption from the provisions of AB 26 and the Former RDA's continued operation pursuant to California Community Redevelopment Law. In addition, the Former RDA and City approved a Remittance Agreement, whereby the Former RDA will transfer redevelopment funds to the City in an amount sufficient for the City to make the required payments to the County Auditor-Controller. The Opt-In Ordinance was enacted by the City

Council, and signed by the Mayor, on August 1, 2011. The Former RDA approved the original EOPS on September 13, 2011, covering the period of 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.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Redevelopment Project Area Committees, the Southeastern Economic Development Corporation Board, the Centre City Development Corporation Board, and pertinent community groups have received updates on the legislative matters that have been considered by the State Legislature since January 2011. There has been no additional formal community participation or public outreach on the Initial Draft ROPS, the Second ROPS or the Third Amended EOPS for the City Council's consideration within the short timelines under AB 26.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Key stakeholders include the communities within the boundaries of the fourteen (14) redevelopment project areas as well as the communities outside of the project areas who benefit from the revitalization of the project areas. Key stakeholders also include the local vendors, consultants, development partners and the City.

Respectfully submitted,

  
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Jay M. Goldstone  
Chief Operating Officer

- Attachments:
1. Initial Draft Recognized Obligation Payment Schedule
  2. Second Recognized Obligation Payment Schedule
  3. Third Amended and Restated Enforceable Obligations Payment Schedule