

## **RESOLUTION NO. 8-2012**

*Adopted January 31, 2012*

### **ADOPTING A SIXTH AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO COMMUNITY REDEVELOPMENT LAW SECTION 34169(G), AS REQUIRED UNDER AB 26**

#### **BASIS FOR RESOLUTION**

1. The Redevelopment Agency of the City and County of San Francisco (the "Agency") has implemented various redevelopment plans that the Board of Supervisors (the "Board") of the City and County of San Francisco (the "City") has approved, all in accordance with the California Community Redevelopment Law, California Health and Safety Code Section 33000 et. seq. (the "CRL").
2. On June 15, 2011, the California Legislature adopted two companion bills relating to community redevelopment: Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and Assembly Bill No. 1X 27 (Chapter 6, Statutes of 2011-12, First Extraordinary Session) ("AB 27"). On June 28, 2011, the Governor approved AB 26 and AB 27; on June 29, 2011, the Secretary of State chaptered those bills; and on June 30, 2011, the Governor signed the State budget bill. By their terms, AB 26 and AB 27 are effective immediately because they relate to the budget bill.
3. AB 26 suspends most new activities of redevelopment agencies as of the effective date of the act (other than making payments due, enforcing covenants and performing its obligations under existing bonds, contracts and other enforceable obligations), dissolves all redevelopment agencies in the State as of October 1, 2011 and designates successor agencies—generally the cities and counties where the agencies operated—to satisfy "enforceable obligations" (as defined in AB 26), preserve assets for the benefit of taxing entities and wind up the affairs of former redevelopment agencies.
4. AB 27 allows a city or county (the "Community") to continue to undertake state-authorized redevelopment activities and avoid redevelopment agency dissolution despite AB 26, if by October 1, 2011 (or alternatively November 1, 2011) the local legislative body enacts an ordinance under Section 34193 of the CRL, including the Community's agreement to make specified payments each year ("Community Remittances") to the Educational Revenue Augmentation Fund ("ERAF") for the benefit of the local school district and community college, and, if applicable, to a new Special District Allocation Fund ("SDAF") for the benefit of certain special districts, consisting of fire protection service and transit districts (the "Community Remittance Ordinance").

5. On August 2, 2011, the Board unanimously approved, as provided under AB 26, a non-binding resolution that extends the time to adopt a Community Remittance Ordinance until November 1, 2011. Resolution No. 350-11 (Aug. 3, 2011).
6. On August 11, 2011 and again on August 17, 2011, the California Supreme Court issued an order staying the dissolution sections of AB 26 and most of AB 27 until it could decide the case challenging the constitutionality of the new laws. California Redevelopment Association v. Matosantos, No. S194861. Under the Court's orders, however, the Agency remains in a state of suspension whereby it is unable to undertake new activities.
7. As a result of the passage of AB 26, most of the Agency's new redevelopment activities have been suspended since June 30<sup>th</sup>, except for those activities related to the performance of existing enforceable obligations and those related to future actions that a successor agency, or the Agency--if it is not dissolved--may be required to take. Furthermore, AB 26 requires the Agency to prepare for dissolution by, among other things, preparing a list of enforceable obligations.
8. AB 26 defines "Enforceable Obligations" as: (a) bonds, including debt service and related required payments; (b) loans of money borrowed by the Agency, including funds borrowed from the Agency's Low and Moderate Income Housing Fund; (c) payments required by the Federal government; obligations to the State or imposed by State law (other than regular pass-through payments), and payments related to Agency employee obligations (including pension system payments); (d) legal judgments and settlements; (e) agreements and contracts, such as construction contracts, personal services contracts, Owner Participation Agreements, and Disposition and Development Agreements; (f) contracts and agreements necessary for Agency administration and operations, such as rent, equipment and supplies, and insurance; and (g) collective bargaining agreements with employee organizations. See CRL Sections 34167(g) and 34190(e).
9. AB 26 requires the Commission to adopt an "Enforceable Obligation Payment Schedule" within 60 days of the effective date of AB 26 (i.e., August 28, 2011). The Enforceable Obligation Payment Schedule must include, for all defined enforceable obligations, the following: (a) the project name associated with the obligation; (b) the payee; (c) a short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made; and (d) the amount of payments obligated to be made, by month, through December 2011. CRL Section 34169 (g).
10. AB 26 requires that the Agency adopt, at a public meeting, the Enforceable Obligation Payment Schedule, post it on the Agency's website, and transmit it to the County auditor-controller as well as the State Controller and Department of Finance. The Agency's Enforceable Obligation Payment Schedule does not become effective until three business days after the Agency's adoption. Until the schedule becomes effective, the Department of Finance may request a review and,

if it requests a review, the Department of Finance has 10 days to approve the agency action or return it to the agency for reconsideration. After the Enforceable Obligation Payment Schedule is adopted, the Agency can only make payments as listed on the Schedule (other than payments required by bonded indebtedness). CRL, Section 34167 (h).

11. On August 26, 2011, the Agency approved Resolution No. 95-2011, adopting an Enforceable Obligation Payment Schedule in accordance with the requirements of AB 26 and the CRL, which schedule was transmitted as required to the County auditor-controller, the State Controller and the Department of Finance, and has been posted on the Agency's website.
12. On September 20, 2011, the Agency approved Resolution No. 100-2011, adopting a First Amended Enforceable Obligation Payment Schedule in accordance with the requirements of AB 26 and the CRL, which schedule was transmitted as required to the County auditor-controller, the State Controller and the Department of Finance, and has been posted on the Agency's website.
13. On October 18, 2011, the Agency approved Resolution No. 104-2011, adopting a Second Amended Enforceable Obligation Payment Schedule in accordance with the requirements of AB 26 and the CRL, which schedule was transmitted as required to the County auditor-controller, the State Controller and the Department of Finance, and has been posted on the Agency's website.
14. On November 15, 2011, the Agency approved Resolution No. 107-2011, adopting a Third Amended Enforceable Obligation Payment Schedule in accordance with the requirements of AB 26 and the CRL, which schedule was transmitted as required to the County auditor-controller, the State Controller and the Department of Finance, and has been posted on the Agency's website.
15. On December 6, 2011, the Agency approved Resolution No. 109-2011, adopting a Fourth Amended Enforceable Obligation Payment Schedule in accordance with the requirements of AB 26 and the CRL, which schedule was transmitted as required to the County auditor-controller, the State Controller and the Department of Finance, and has been posted on the Agency's website.
16. On January 17, 2012, the Agency approved Resolution No. 3-2012, adopting a Fifth Amended Enforceable Obligation Payment Schedule in accordance with the requirements of AB 26 and the CRL, which schedule was transmitted as required to the County auditor-controller, the State Controller and the Department of Finance, and has been posted on the Agency's website.
17. On December 29, 2012, the California Supreme Court issued an opinion confirming the validity of AB 26 but striking down AB 27, which will result in the dissolution of the Agency as of February 1, 2012, at which date the City and


County of San Francisco will become the successor agency and will assume all obligations of the Agency, as provided in the CRL as amended by AB 26.

18. Pursuant to CRL, Section 34169 (g) (2), the Agency may amend the Schedule at any public meeting, and must post it on the Agency's website for at least three business days "before a payment may be made pursuant to an amendment." Staff has prepared a Sixth Amended Enforceable Obligation Payment Schedule that is attached to this Resolution and that lists all outstanding obligations of the Agency and payments due from in January through June 2012. The attached Schedule consists of three parts: obligations for non-housing, housing and bonds.
19. The Agency reserves the right to determine that an item listed on the attached Enforceable Obligation Payment Schedule does not meet the definition of an Enforceable Obligation under CRL Sections 34167(g) and 34190(e). Inclusion of a project and payee on the attached Schedule also does not constitute a final determination that the Agency will make a payment in the designated month.
20. Adoption of the Sixth Amended Enforceable Obligation Payment Schedule is not a project as defined by the California Environmental Quality Act ("CEQA") Guidelines, Sections 15378(b)(4) and 15378(b)(5), because it is a state-mandated administrative and fiscal activity that will not independently result in a physical change in the environment. Accordingly, it is not subject to environmental review under CEQA.

### **RESOLUTION**

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco that the Sixth Amended Enforceable Obligation Payment Schedule, attached as Exhibit A and consisting of three parts designated as Non-housing (A-1), Housing (A-2), and Bonds (A-3) (the "Schedule"), is hereby adopted and that the Executive Director shall post the Schedule on the Agency's website and transmit the Schedule to the California Department of Finance, the State Controller, and the Controller of the City and County of San Francisco and shall take other action necessary to comply with AB 26's requirements relating to the Schedule.

**APPROVED AS TO FORM:**

  
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James B. Morales  
Agency General Counsel