

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 17, 2012.



Chair, Oversight Board