

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE, WHICH DETAILS THE OBLIGATIONS OF THE REDEVELOPMENT AGENCY AND THE CITY OF SAN JOSE, AS IT RELATES TO THE LOW AND MODERATE INCOME HOUSING FUND, IN ORDER TO COMPLY WITH THE PROVISIONS OF SECTION 34169 OF THE HEALTH AND SAFETY CODE**

**WHEREAS**, 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. As a result, most of the Redevelopment Agency of the City of San Jose's ("Agency") new redevelopment activities have been suspended since June 30<sup>th</sup>, except for those activities related to the performance of enforceable obligations and those related to future actions that a successor agency may be required to take; and

**WHEREAS**, on July 18, 2011, the City of San Jose ("City") joined with the California Redevelopment Association, League of California Cities, and certain other parties and filed a petition for writ of mandate and an application for temporary stay in the Supreme Court of the State of California (the "Court"), challenging the constitutionality of AB 26 and AB 27, California Redevelopment Association v. Matosantos, No. S194861 (the "Action"). In the Action the petitioners sought, among other things, to invalidate AB 26 and AB 27 and to stay the enforcement of those provisions dissolving redevelopment agencies and requiring payment of the community remittance. The Court accepted original jurisdiction in the Action, granted a partial stay pending its resolution of the case but kept in place the moratorium on most new redevelopment activities and the requirement that redevelopment agencies adopt enforceable obligation payment schedules; and

**WHEREAS**, on August 23, 2011, the City Council and Agency Board adopted resolutions approving the Enforceable Obligations Payment Schedule (“EOPS”) for the period covering July 1, 2011 to December 31, 2011 pursuant to Health and Safety Code Section 34169 (g) (1) that lists all of the obligations that are enforceable under the legislation; and

**WHEREAS**, on September 27, 2011, the City Council and Agency Board adopted resolutions approving an amended EOPS; and

**WHEREAS**, on December 29, 2011, the Court issued its final decision in the Action, (1) upholding most of AB 26 regarding the dissolution of redevelopment agencies and the transfer to successor agencies, (2) invalidating all of AB 27, and (3) extending various deadlines under AB 26 by four months corresponding to the period the Court’s stay was in effect, and in so doing extended the deadline for the automatic dissolution of redevelopment agencies, including the Agency, to February 1, 2012; and

**WHEREAS**, on January 24, 2012, the City Council affirmed its decision to serve as the Successor Agency for the Redevelopment Agency of the City of San Jose; and

**WHEREAS**, under the timelines of the legislation, modified by the Supreme Court in its decision, the Successor Agency must formally adopt a Recognized Obligation Payment Schedule (“ROPS”) by March 1, 2012 for the period of January 1, 2012 to June 30, 2012. The ROPS process also requires certification from the County-Auditor Controller and approval by the Oversight Board; and

**WHEREAS**, since the EOPS is the basis for paying enforceable obligations until the first ROPS is approved, an amended EOPS is needed to ensure that payments can continue to be made between January 1, 2012 and the operative date of the ROPS; and

**WHEREAS**, staff recommends that the Council approve the Amended Enforceable Obligation Payment Schedule, attached hereto, for the period from January 1, 2012 through June 30, 2012, which includes changes as specified in the memorandum to the City Council and Agency Board from the City Manager and Managing Director, dated January 25, 2012; and

**WHEREAS**, while AB 26 purports to invalidate most agreements between the City and Agency, it is the intent of the Agency Board and City Council to preserve the obligations between the City and Agency to the extent legally possible;

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**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The Amended Enforceable Obligation Payment Schedule, attached hereto, updating the obligations of the Redevelopment Agency and the City of San Jose as it relates to the Low and Moderate Income Housing Fund, in order to comply with the provisions of Section 34169 of the Health and Safety Code is approved.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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DENNIS D. HAWKINS, CMC  
City Clerk