CITY OF CARSON

INTEROFFICE MEMORANDUM

TO: MAYOR AND COUNCILMEMBERS

FROM: CLIFFORD W. GRAVES
ECONOMIC DEVELOPMENT GENERAL MANAGER

SUBJECT: REDEVELOPMENT REPORT

DATE: FEBRUARY 7, 2012

The Carson Redevelopment Agency dissolved at 11:59 p.m. January 31, 2012. Appropriately, the Carson City Council adjourned its January 31 special meeting in memoriam to the program. Redevelopment had been an integral part of the community since 1971. The same event occurred throughout California. Exhibit No. 3 is the epitaph for the Oakland Redevelopment Agency.

This report summarizes the transition of the agency's activities to its successors: the Carson Housing Authority (CHA) and the Carson Successor Agency (CSA) to date. Given the many unknowns surrounding the statewide implementation of AB 1X26, Carson is in a relatively good position. Nevertheless, the city will have to find new tools for capital and economic investment.

Carson Housing Authority (CHA)

The CHA has assumed the redevelopment agency's housing program. Its principal activities are:

- Continuing rental assistance payments to two affordable multi-tenant residential projects in the city:
    - **Carson Terrace**: Pursuant to the OPA, the Agency is required to provide the Developer a rent subsidy in the amount of $73,320.00 per year for 30 years following the date of the certificate of occupancy (COO) for the project. The COO was issued in December 2000, and the Agency must make subsidy payments until December 2030. There are approximately 18 years of annual payments remaining.
    - **Avalon Courtyard**: Pursuant to the DDA, the Agency must provide the Developer a rent subsidy in the amount of $160,524.00 per year for 30 years following the date of the COO, which was issued in August 1995, and the Agency must make subsidy payments until August 2025. There are approximately 13 years of annual payments remaining.

- Monitoring Carson's existing affordable housing projects for compliance with terms of their development agreements. Most of these projects were made possible by redevelopment agency loans; and produce "residual receipts," which can be used for Authority administration. The Carson agency loan portfolio includes 385 units, with 105 in its pipeline. *Note that the Los Angeles Community Redevelopment Agency had 29,000 units in its portfolio, with 6,000 in its pipeline!*

- Managing projects under construction, including The Renaissance at City Center (Safran) and Via 425 (The Related Companies).

- Moving projects with development agreements to construction. These include 616 E. Carson Street (Cityview/Community Dynamics), 2535 E. Carson Street (Olson), and 21227-37 Figueroa Street (Affirmed), and The Boulevards LNR/Hopkins).

- With any remaining funds, the CHA will form new projects on other sites.

- The CHA will also cover administrative costs not allowed by other sources for the CDBG, Neighborhood Stabilization (NSP), and Mobilehome Rent Control programs through the 2011-2012 Fiscal Year.

Correcting my report dated January 7, 2012, the CHA begins life with $31,967,497.00 in cash and taxable bond proceeds. Except for residual receipts and income from land sales and leases, the CHA has no source of revenues. Estimated cash flows suggest that CHA can operate for 3-5 years.

Carson Successor Agency (CSA)

The CSA opened for business February 1, 2012, as authorized by the City Council. It will manage payment of redevelopment agency obligations enumerated on Carson's Enforceable Obligation Payment Schedule (EOPS) as amended by the City Council January 17. Under AB 1X 26, the Los Angeles County Auditor/Controller is to remit sufficient funds to meet these obligations, plus an administrative fee (5% of the EOPS this year, 3% in FY 2012-2013), from property tax revenues each year. Figure 1 summarizes the EOPS, by category of obligation. The CSA administrative budget for the balance of 2011-2012 is approximately $450,000.00. The CSA's responsibilities include payments on the Agency-funded capital improvement projects under way. Exhibit No. 2 shows the CIP projects and the Agency funds committed.

Figure I

OBLIGATION	TOTAL OUTSTANDING	TOTAL DUE DURING FY 2011/12
DEBT SERVICE	$340,759,223.25	$15,495,687.65
DDA/OPA	$13,075,301.37	$7,969,134.37
CITY AND FEES	$103,005,477.48	$24,227,703.00
CIP	$124,954,480.00	$48,377,397.00
CONTRACTS/CONSULTANTS	$2,074,253.45	$16,029,677.33
O&M	$631,525.87	$760,127.08
PASS THROUGHS	$58,520,000.00	$3,598,300.00
	$643,020,261.42	$116,458,026.43

The Auditor/Controller has the right to challenge items on the EOPS, as does the state of California. Carson has sufficient funds on hand to meet its current EOPS obligations, and pre-February 1, was generating more than enough tax increment to cover these obligations. Despite the EOPS obligations, county taxing entities will receive more property tax revenue from Carson than pre-February 1.

Besides paying bills, the CSA will manage and dispose of non-housing real estate formerly owned by the agency. Property may be sold after an appraisal on the open market. The CSA staff has received several inquiries, and a few offers, from persons interested in one or more properties already. Viable offers will be presented to the CSA Board. Revenues from property sales will go to the Auditor/Controller for distribution to school districts and other taxing agencies.

Another entity will be looking over CSA's shoulder soon. AB1X26 establishes an "Oversight Board" (COB) to review CSA transactions. The COB's apparent purpose is to ensure that CSA does nothing to the detriment of property taxing entities. The Mayor appoints two members; other members will represent Los Angeles County, LAUSD, the community college district, and one other taxing district. This adds up to three separate public bodies to watch and potentially challenge every CSA transaction. Also, the public is invited.

It also adds up to a lot of confusion and uncertainty throughout California at all levels of government. Some clarification may come from "fix-up" legislation later this year. Exhibit No. 1 contains notes from CRA and city attorneys regarding issues requiring legislative resolution. Assembly Speaker Perez recently introduced AB 1585, an urgency measure addressing some of these issues.

Administrative Transition

The transition abruptly reduced the funds for what had been redevelopment activities and projects. Several capital improvement and economic development projects on the drawing board are suspended. Layoff notices were issued to 7 employees January 23. Two more were transferred to vacant positions in the city. The Economic Development Work Group saw the heaviest cuts. More will be necessary next fiscal year. The work group organization has been modified to fit its new challenge.

LEAGUE OF CALIFORNIA CITIES

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January 27, 2012

The Honorable Jerry Brown, Governor
State Capitol
Sacramento, CA 95814

RE: Urgent Need to Correct Serious Defects in ABx1 26

Dear Governor Brown:

As cities and redevelopment agencies have worked in recent weeks to interpret and implement the directives of the Supreme Court and ABx1 26, the League and the California Redevelopment Association (CRA) have advised the Legislature and the Department of Finance of many serious defects in the legislation that could undermine its intent, cause the waste of taxpayer funds and further erode faith in state and local government. For this reason we have urged support for the short delay in implementation contained in SB 659 (Padilla) to minimize irreversible mistakes in implementing the law.

Now that many cities are on the verge of having to implement this flawed legislation, we are writing to urge you to work with the legislature, the CRA and us in developing corrective legislation that addresses the many defects in ABx1 26—defects that may be so serious that they could impede the ability of local agencies to effectively manage public funds during the dissolution process. If this happens, the taxpayers of California could pay a serious price. The critical problems we have identified generally fall into the following categories:

- **Possible Bond Defaults**. Despite the stated intent of the dissolution legislation, the three national bond rating agencies have alerted us that conflicts and ambiguities in the law present the very real prospect of successor agencies not having the cash to make timely bond payments and other potential bond defaults that would deprive the owners of these California municipal bonds of their rights and open the state and local agencies to significant litigation costs and higher interest costs in the future.

- **Loss of Taxpayer Funds.** We have documented dozens of problems with ABx1 26 that should be corrected before implementation or it could result in the loss of valuable taxpayer funds. One example is that the legislation appears to require successor agencies to "defease" bonds issued for construction projects that have already been designed because the construction contracts have not been

EXHIBIT NO. 01

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finalized and are not "enforceable obligations" under the statute. In such cases federal law and most bond covenants require the successor agencies to do this by setting-aside bond proceeds in low-interest bearing escrow accounts while paying bondholders much higher interest rates. Taxpayers will shoulder the very significant cost of this financial loss and lose the benefits of the project.

- **Possible Violations of Federal Law.** The legislation appears to require that local successor agencies violate federal tax law on how bond proceeds can be used or to breach contracts with federal agencies that helped finance certain projects that require prior approval of transfers of real estate. As you now, state law simply may not conflict with federal law. These conflicts can be resolved or prevented without litigation if there is time to amend the law or alert federal agencies.

- **Stranded Public Infrastructure Projects.** The current law appears to prevent the completion of many infrastructure projects, including ones for which federal funds have been committed, bonds have been issued and engineering design has been completed but for which no construction contracts have been let. In other cases, design work currently under contract will have to be completed and paid for on projects that will never be built under the law. These projects, the jobs they would have created, and the revenue they would have provided to the state and local governments will be tragically lost. In other cases, environmentally contaminated lands may never be cleaned up and reused because the law eliminates the funding source for the clean-up. In the meantime, successor agencies will be liable for these properties.

- **Loss of Critical Staff to Implement Law.** Lack of clarity and in some cases unreasonable limits on administrative costs in the law combined with unreasonable time lines for planning mean many talented staff who are needed for implementing the law and supporting the work of the Oversight Boards will have to be let go.

We have appreciated our recent discussions with the Department of Finance in which we (the League and CRA) have laid out all of these problems in detail along with our proposed solutions (see attached list). We strongly recommend that you urge the Legislature to immediately enact these key amendments to ABx1 26. We pledge to work collaboratively with all parties to fashion the needed amendments in order to prevent harm to the public interest.

Respectfully,

R Michael Kasperzak, Jr., President
Mayor, Mountain View

Christopher McKenzie
Executive Director

c. Members of the California State Senate and Assembly
Ana Matosantos, Director of Finance

ABx1 26 Implementation Issues

I. Bonds and other Enforceable Obligations

1. Gap in making required payments. Section 34177(a)(3) states that commencing on May 1, 2012 (as reformed by the Court), only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. However, Section 34177(l) states that the ROPS will not be effective until after approved by the Oversight Board which is not required to be constituted until May .

Problem: There will likely be a time period (from May 1 until the ROPS is approved by the Oversight Board) in which payments may become due and the successor agency will not be authorized to make the payments.

Solution: Amend AB 26 to allow successor agency to continue making payments after May 1 based upon EOPS until ROPS takes effect.

2. Insufficient funds to make semi-annual bond payments. AB 26 directs the county auditor-controller to make payments to successor agencies based upon the ROPS. The ROPS is a forward-looking schedule that lists payments due in the next six-month period. After the auditor-controller distributes property tax to make those payments, the remaining property tax is distributed to the taxing agencies.

Problem: Most tax allocation bonds are structured with semi-annual interest payments and annual principal payments. Typically, revenues collected within a fiscal year are applied to bond payments in the lagging calendar year, with the smaller interest payment due in the spring paid from December tax receipts and the larger principal and interest payment due in the late summer or fall paid from remaining December tax receipts plus April tax receipts. If county auditor-controllers only forward to successor agencies the interest amount payable from December receipts and distribute the balance to other entities, the agency may not have sufficient funds from the April receipts to cover the principal and interest payment due later in the year.

Second, most debt security documents require that the full *annual* debt payments due from a fiscal year's revenues are satisfied before excess revenues can be released to other purposes – such as subordinate bonds or subordinate pass thru payments. This section effectively undermines the lien status of agency obligations by releasing funds to subordinate claims on a semi-annual basis before senior claims have been satisfied.

Solution: Amend AB 26 to allow successor agency to claim property taxes for the full annual bond payment due so as to be able to make the second (larger) payment as required by the bond covenants and to be able to satisfy most senior claims to the funds.

3. **Additional authority to make bond payments.** AB 26 limits both redevelopment agencies and successor agencies to making those payments that are listed on the EOPS with one important exception. Redevelopment agencies may not make a payment unless it is listed on the EOPS "other than payments required to meet obligations with respect to bonded indebtedness." This language ensured compliance with all bond covenants.

Problem: The language that ensures compliance with all bond covenants was not included for successor agencies. [Compare Section 34167(h) with 34177(a)]

Solution: Amend AB 26 to allow successor agencies to make all payments required "to meet obligations with respect to bonded indebtedness."

4. **Bond refundings not allowed even when savings are created.** A bond refunding can generate annual debt service savings due to lower interest rates even though the principal balance increases to cover costs of issuance, debt service reserves and/or insurance premiums.

Problem: Section 34180(b) allows a successor agency to refund bonds with oversight board approval but only if no additional debt is created. Therefore the statute does not allow something that would actually generate additional tax revenue for the taxing entities by lowering the costs of the bonds.

Solution: Amend AB 26 to allow refunding of bonds to generate annual debt service savings due to lower interest rates even if additional debt is created – as long as total increment required to repay debt is not increased.

5. **Use of unspent bond proceeds: Conflict with federal tax limitations**: Legal covenants and federal tax law regulate the use of bond proceeds. Agencies issued bonds prior to AB 26; "spent" some of the proceeds; and are left with some of the proceeds unspent.

Problem: AB 26 does not provide clear direction about what can be done with these unspent proceeds without jeopardizing tax status of the bonds or violating bond covenants.

Solution: Amend AB 26 to allow use of bond proceeds consistent with the purpose of the bonds in order to retain tax-exempt status of the bonds and comply with bond covenants.

6. **Disposition of bond-funded assets: Conflict with federal tax limitations**: AB 26 requires the successor agency to dispose of assets and properties of the redevelopment agency. In many cases the assets were funded through use of tax-exempt bond proceeds or taxable Build America Bond proceeds. The cash proceeds of a sale of these bond-funded assets will be governed by federal tax law.

Problem: Bond covenants require compliance with federal tax law. There's no provision in AB 26 to require taxing entities that receive proceeds to assume responsibility and liability for fulfilling these covenants.

Solution: Amend AB 26 to prevent use of proceeds of bond-funded assets that would violate federal tax law. This may require allowing successor agency to retain asset or proceeds and use in accordance with federal tax law.

7. **Implied pooling of distinct security sources**. Section 34170.5(b) directs each county auditor-controller to "create within the county treasury a Redevelopment Property Tax Trust Fund for property tax revenues related to each former redevelopment agency. Many agencies have separately leveraged tax increment from distinct project areas and/or for the housing set-aside of one or more project areas. Each of these securities may have distinct credit characteristics, bonded debt leverage, pass through payment obligations and credit ratings.

Problem: AB 26 does not include any direction to the auditor-controller to account for distinct credit characteristics, bond debt leverage, pass through payment obligations and credit ratings. To the extent these funds are commingled, the credits securing outstanding bonds could be materially changed. Investors' ability to appropriately track and value their investments could be impaired.

Solution: Amend AB 26 to direct the auditor-controller to establish an accounting system that allows for the payment of agency debt in accordance with its unique characteristics; amend AB 26 to guide the auditor-controller in how to investigate the unique characteristics of agency debt.

8. **Source of funding for bond payments through May 16, 2012**. Please see Problem Statement and Solution in Section V(1) below to ensure an adequate source of funding for bond payments through May 16, 2012.

9. **Employee costs as "enforceable obligations."** AB 26 provides for an administrative cost allowance funded from property tax to pay for certain costs incurred for winding down the affairs of the redevelopment agency. Successor agencies may only pay for "enforceable obligations."

Problem: The definition of "enforceable obligation" (Section 34171(d)(1)) does not clearly include the costs of employees who are necessary to carry out "enforceable obligations" as required by Section 34177(c).

Solution: Amend AB 26 to include within the definition of "enforceable obligation" the costs of employees who are necessary to carry out "enforceable obligations" as required by Section 34177(c).

II. Employment/Administration

1. **Administrative Cost allowance**: Section 34171(b) limits the administrative cost allowance to 5% of the property tax allocated to the successor agency for the 2011-12 fiscal year and 3% of property taxes allocated to the Redevelopment Obligation Retirement Fund in subsequent years.

Problem: The statute can't be implemented because of delay in implementation of AB 26. The successor agency did not receive property tax for the full 2011-12 fiscal year because of the delay in implementation of AB 26.

Solution: Amend the statute to calculate 5% based upon full 2011-12 fiscal year tax increment [tax increment allocated to redevelopment agency in first part of 2011-12 fiscal year; and successor agency in second part of 2011-12 fiscal year].

2. **Staffing**: The administrative cost allowance is too small to cover the costs of staff who are necessary to continue to perform the obligations required by enforceable obligations and otherwise wind down agency affairs. DOF claims that these staff costs can be included as "enforceable obligations" on the EOPS.

Problem: AB 26 does not directly address whether staff costs of the successor agency to wind down the affairs of the redevelopment agency can be included as enforceable obligations. Because layoff notices must be sent in accordance with MOUs, etc. and because these staff costs are high, successor agencies cannot take the risk of following DOF's direction and then finding out the direction is flawed.

Solution: Amend the statute to clearly state that reasonable staff costs of performing obligations required by enforceable obligations and disposing of assets and properties are "enforceable obligations" for purposes of EOPS.

III. Contracts/Real Property

1. **Limits on transfer of property: federal government consent required**: Property of the redevelopment agency will transfer by operation of law to successor agencies on February 1.

Problem: Many redevelopment agency contracts contain limits on the ability of the agency to transfer property. For example, boilerplate in federal economic development grant contracts prohibit transfer without consent of the federal government. There is insufficient time to obtain this consent prior to February 1.

Solution: Amend the statute to recognize certain transfers are subject to the approval of appropriate federal agencies and the conveyance.

2. **Almost all redevelopment agency/city agreements invalidated**. With two exceptions, AB 26 invalidates all agreements that require a redevelopment agency to repay the city or county that created it.

Problem: These agreements take many forms. Some actually save the taxing entities money. Some were specifically authorized by the Legislature. (1) An example of the former: City loans money to agency to reconstruct streets and underground utilities. Property tax increment is used to repay loan. Issuing bonds for this project would have been much more expensive – requiring more tax increment – because of payment of bond counsel, underwriting fees, and continuing disclosure and maintenance of coverage factors and reserves. Cities will be punished for financing redevelopment activity in the most efficient way. (2) An example of the latter: The Legislature allowed a city to loan money to its redevelopment agency to make the SERAF payments. AB 26 nullifies this agreement that the Legislature specifically allowed.

Solution: Amend the statute to include agreements that the Legislature and Governor agree should be honored.

3. **Termination of pass-through agreements**. Obligations of redevelopment agencies become the obligations of successor agencies.

Problem: Many pass-through agreements contain provisions that terminate the agreement if the agency ceases to exist, no longer receives tax increment or if there is an alteration in the tax increment allocation system. If these agreements terminate, taxing entities will receive less. Sometimes this money is pledged. Sometimes these agreements contain non-monetary obligations.

Solution: Amend statute to address problem.

4. **Transfers of property**. AB 26 transfers property from the redevelopment agency to the successor agency by operation of law.

Problem: The transfer of property by operation of law will create title problems for the subsequent transfer of property from the successor agency to a third party as there has been a break in the chain of recorded title. This will create problems for title insurers and county recorders. Many title companies have already instituted a moratorium on writing title insurance for redevelopment transactions.

Solution: Amend the statute to allow transfers of properties to successor agencies with proper documentation.

5. **Pending eminent domain proceedings**. AB 26 vests in the successor agency the authority formerly vested in the redevelopment agency "except as repealed, restricted or revised" pursuant to AB 26. Section 34163(e) states that

redevelopment agencies no longer have authority to acquire real property. (Also see Section 34189(a)).

Problem: Redevelopment agencies commenced eminent domain proceedings prior to AB 26 but cannot complete the proceedings. Successor agencies can't complete the proceedings either. This means abandoning eminent domain actions which means paying the property owner's attorneys fees, abandonment of public projects and waste of public funds.

Solution: Amend ABx1 26 to allow a successor agency to complete an eminent domain proceeding which has been initiated by the former redevelopment agency.

IV. Oversight Board

1. **Legal Status**. AB 26 creates an oversight board for each successor agency.

Problem: AB 26 is silent regarding (1) legal status as a public entity; (2) authority to enter into contracts; (3) authority to sue and be sued; (4) authority to retain legal counsel

Solution: Amend statute to provide complete description of powers and duties of oversight board.

2. **Determination of largest special district**: One of the members of the oversight board is from the "largest special district by property tax share."

Problem: The "property tax share" can be calculated prior to or after making the ERAF calculation. AB 26 is silent on this issue.

Solution: Amend AB 26 to explain whether the share is calculated pre or post ERAF.

V. Auditor-Controller

1. **Payment of Property Taxes to Successor Agencies**. AB 26 directs the county auditor-controller to make property tax payments to successor agencies based upon the Recognized Obligation Payment Schedule (ROPS).

Problem: The ROPS will not become effective until May 1. Successor agencies are required to make payments for enforceable obligations listed on Enforceable Obligation Payment Schedule (EOPS) beginning February 1.

Solution: Amend AB 26 to authorize county auditor to allocate property tax to successor agencies based upon EOPS until ROPS is in effect.

Susan Nursement

From: Cliff Graves
Sent: Monday, January 30, 2012 12:51 PM
To: Susan Nursement
Cc: Jeff Westbrook; Linda Mann
Subject: FW: CRA AB 26 Teleconferences: Housing
Attachments: tmp_1942_1-26-2012_30516_.pdf

Susan,

Please print email and attachment.

Thanks!

From: William Wynder [mailto:wwynder@awattorneys.com]
Sent: Monday, January 30, 2012 10:34 AM
To: David Biggs; Cliff Graves; Jeff Westbrook
Subject: CRA AB 26 Teleconferences: Housing

As you know, the CRA is doing an issue-by-issue teleconference series on AB 26. Friday morning there was a housing issues conference. Attached is the Housing Q&A sheet from that series, and here are our notes:

(1) Clarify terminology: "Housing Successor" may be different from "Successor Agency" even if they are the same body.

(2) AB 26 does not provide a specific mechanism for funding the Housing Successor ("HS") like it does for the Successor Agency ("SA"). 5% or $250K admin allowance for SA may not apply to HS. Consider including a separate line item for HS on your ROPS?

(3) Housing Accounts: Set up distinct accounts for housing $. Unencumbered Housing $ should go to an account with the SA; that money will ultimately go to the County Auditor-Controller. Encumbered Housing $ (that money needed for HS's enforceable obligations) will ultimately go to an account with the HS. Encumbered former RDA housing funds should be held in a separate account with the HS, not intermingled with other monies that may be held by HS (like if your HS is your existing Housing Authority, for example). Note: even though it's clear that the HS will keep the encumbered housing $, it's unclear whether it has to "pass through the hands" of the county (see memo from Pam and I circulated last week). CRA groups seems to believe you can just create an account with the HS and put your encumbered housing $ directly into it, but that's unclear.

(4) Property bought by LMIHF: According to the group, property bought by the LMIHF goes straight to the HS without any interference from Oversight Board at all--property bought from LMIHFs is "off limits" to Oversights; HS even gets to keep the rents from such property.

(4) Consider doing exit memos explaining why you believe your housing assets really are "housing" assets. Exit memos should delineate which housing assets are going to SA and which are going to HS. Note: the DoF has indicated that it will NOT consider properties bought with 80% money to be housing assets unless the properties are unencumbered by a clear and unconditional contract for housing development.

(5) Western Center on Law & Poverty Position: CRA considers the Western Center's position in re including the entire LMIHF in your ROPS to be HIGHLY dubious and not likely to succeed.

(6) Admin Allocation on ROPS: On your next iteration of your ROPS, consider loading your admin costs on your ROPS under specific Projects rather than as one-lump line item.

(7) Definition of "housing" properties: DoF is creating a calculation for determining when mixed housing/commercial lands are deemed as "housing" assets. There may be more guidance on that type of issue coming from DoF.

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William W. Wynder, Esq.

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ABx1 26 AFFORDABLE HOUSING PROVISIONS

1. What are our options concerning turning over the housing functions to another entity?

The host City/County can elect to retain the RDA Housing functions and assets, or not. If a City declines, and the City has a local Housing Authority (or the city is establishing a local housing authority), then the City may select the Housing Authority to assume the housing assets and functions. If a City declines and if your City does not have a Housing Authority, then the County's Housing Authority will assume the housing assets and functions. If there are no local Housing Authorities in the city or county, then the housing assets and functions are assumed by and transferred to State Housing and Community Development (HCD). There are potential risks and advantages associated with each option and redevelopment agencies are encouraged to discuss these with their attorneys and financial advisors.

2. What is the difference between the Successor Agency and the Housing Successor?

The City or County that formed the RDA becomes the "Successor Agency", unless it opted not to by January 13th. All assets properties, contracts, leases, books and records, buildings and equipment of the RDA (except for most affordable housing assets) transfer to the Successor Agency whose task is to unwind and liquidate the non-affordable housing assets, under the control of the oversight board.

In contrast, another part of AB x1 26 states that the City or County that authorized creation of the RDA may elect to retain the affordable housing assets and functions previously performed by the RDA. If the City or County so elects (or if these functions pass on to the housing authority or HCD), all former RDA housing-related rights, powers, duties and obligations, excluding amounts in the Low and Moderate Income Housing Fund ("Housing Fund"), pass to this entity ("Housing Successor"). The Housing Successor is not subject to the Oversight Board's control. If the Housing Successor is the City or County, it is the City or County acting in its own capacity and not as a "Successor Agency".

3. What happens to Affordable Housing Assets on February 1, 2012?

All RDA affordable housing assets (excluding the existing Housing Fund balance) transfer to the Housing Successor. The disposition of the existing Housing Fund balance is somewhat unclear in the law, as one section states that it transfers to the RDA's Successor Agency and is ultimately remitted to the County Auditor Controller for distribution to the taxing entities, while another section of statute provides that the oversight board can order the Successor Agency to turn over all former RDA affordable housing assets, including the existing Housing Fund balance to the Housing Successor. By operation of law, the entire Housing Fund balance will transfer to the Successor Agency on February 1. It is suggested that the Successor Agency then transfer the encumbered Housing Funds to the Housing Successor to use for housing obligations and retain possession of the unencumbered Housing Fund (i.e. not send them to the County Auditor-Controller) until further clarification is made (perhaps by the passage of SB 654).

4. What happens to remaining tax-exempt and taxable Housing bond proceeds?

Bond proceeds are to be spent for the purposes for which they were issued unless those purposes can no longer be achieved, and then they are used to defease bonds. The law is not clear as to who makes this determination. There appears to be a strong argument for transferring Housing bond proceeds to the Housing Successor to be used for their intended purpose, but check with your bond/legal counsel.

5. How is debt service on outstanding Housing bonds paid?

The bond debt should be listed as an Enforceable Obligation on the EOPS/ROPS and be paid by the Successor Agency.

6. What responsibilities will Housing Successor have?

They have all "rights, powers, duties and obligations" of the former RDA. They may enforce affordability covenants and perform related activities pursuant to the CRL (SB 654 would change "may" to "shall"). As written, ABx1 26 is not clear if the Housing Successor must meet any existing or future Replacement Housing or Inclusionary Housing obligations; nor is it clear whether the Housing Successor exercises powers and performs activities pursuant to the CRL statutes that have been repealed or otherwise declared inoperative.

7. Does the Oversight Board oversee the Housing Successor?

No -- based on AB x1 26 provisions at this date.

8. ABx1 26 says that amounts borrowed from the Housing Fund must be repaid. Where do these funds go? To the Successor Agency or to the Housing Successor?

Loan repayments, lease payments, repayments of Housing Fund deferrals and ERAF/SERAF loans are all affordable housing-related accounts receivable, and are therefore considered affordable housing assets of the former redevelopment agency which will pass to the Housing Successor entity. Payments on these accounts receivable will therefore go to the Housing Successor.

9. What should staff do to prepare for transfer of assets and functions to the Housing Successor?

Since assets and obligations will transfer to the Successor Agency and Housing Successor by operation of law on February 1st, without deeds or assignment agreements, it is recommended that RDA staff prepare "exit memos" (one to the Successor Agency and one to the Housing Successor) delineating which assets and obligations will transfer to the Successor Agency and which will transfer to the Housing Successor, so there is an internal record of these transfers. It is suggested that as part of the Successor Agency's setting up of new accounts, a separate "affordable housing account" be established for the existing balance in the RDA's Housing Fund, pending the County audit and outcome of SB654. Also, the Housing Successor should create a new "affordable housing fund" in its accounts where any encumbered affordable housing assets transferred from the Successor Agency, as well as funds received by the Housing Successor from third parties as loan repayments, ground lease payments or sales proceeds, should be placed until used pursuant to CRL applicable to the use of the (former) Housing Fund and, if the Housing Successor is a housing authority, pursuant to applicable provisions of the Housing Authorities Law, Health & Safety Code Section 34200, *et seq*. Notices should be sent to parties of all affordable housing contracts, informing them of the name and address of the Housing Successor, for communications and payments. If the Housing Successor inherits a subordinate mortgage lien from the former RDA, a new request for notice of default under prior liens should be recorded against the property, including the successor agency's name and address.

10. If SB654 (Steinberg) is signed into law, what will be different?

If the January 11, 2012 version of SB654 is adopted, assets transferred to the Housing Successor will include the existing, unencumbered Housing Fund balance. Also, the County Housing Authority can reject becoming the Housing Successor, in which case the responsibility will go to HCD. Also, the Housing Successor "shall" (as opposed to "may") enforce affordability covenants and perform related activities pursuant to CRL.

11. Should our Agency follow the recommendations outlined in the Western Center's memorandum of January 17, 2012?

Western Center on Law & Poverty has taken the position that the total projected amount of the Housing Fund that would be accumulated through the remaining life of the Redevelopment Plan is indebtedness of the Agency and thus an "Enforceable Obligation" and should be reflected as an enforceable obligation (listed on the EOPS and ROPS). Western Center on Law & Poverty also states in the memorandum that every Agency has a "legal obligation" to include the total Housing Fund debt on the EOPS and the subsequent ROPS. Many redevelopment lawyers and practitioners have reviewed this memorandum and do not find its arguments compelling; thus, they do not concur with or conclude there is a "legal obligation." However, RDAs and Successor Agencies may wish to include the annual distribution of low and moderate housing funds as a debt on the EOPS/ROPS and allow the Oversight Board, and/or County Auditor-Controller, and/or DOF to make the final determination.

12. Is there a cost allowance for the administration of the Housing Successor?

While ABx1 26 provides an administrative cost allowance for the Successor Agency, subject to the approval by the Oversight Board, it does not address costs related to the administration of the Housing Successor. Therefore, the Housing Successor will be responsible for administration costs. Generally, Agencies are listing all affordable housing obligations as enforceable obligations on the EOPS and ROPS. This strategy is being employed in order to seek to receive reimbursement for staffing costs as direct project costs for implementation of Enforceable Obligations. Administrative costs of the Housing Successor can also be paid with program income, or the Successor Agency may chose to share its administrative cost allowance with the Housing Successor.

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CRA Funded project (CRA Amount only) **1/17/2012**

Proj No.	Description	Engineer/ Construction Manager	Contractor	Date Awarded/ Amended	CRA Contract Amount		Other Funds	Total Cost
					Awarded	To be Awarded		
921	Avalon Blvd Interchange Modification at the I-405 Freeway	AECOM		11/15/2005 12/15/2009	$1,476,350.00		$769,125.00 Fed	$2,245,475.00
921	Avalon Blvd Interchange Modification at the I-405 Freeway	Parsons (CM)		12/16/2008	$2,403,506.43			$2,403,506.43
921	Avalon Blvd Interchange Modification at the I-405 Freeway		Powell Constractors	6/15/2010	$5,964,054.00		$6,770,000.00 MTA	$12,734,054.00
919	Wilmington Avenue Interchange Modification at the I-405 Freeway	Parsons Transportation Group		9/5/2006 11/16/2010	$2,509,424.52			$2,509,424.52
919	Wilmington Avenue Interchange Modification at the I-405 Freeway	TCM Group, Inc (CM)		2/17/2009	$2,994,788.00			$2,994,788.00
1281/ 1286	Citywide Annual Overlay and Concrete Project	n/a	All American Asphalt, Inc.	9/6/2011	$215,000.00		$1,065,000.00 State/Gas Tax	$1,280,000.00
1223	Carson Park Master Plan		CWS Systems, Inc.	11/15/2011 (09-06-2011)	$9,351,000.00			$9,351,000.00
1317	Community Center HVAC,Roof and Solar		Eberhard	12/21/2010	$4,329,060.00		$899,900.00 Fed $95,000.00 City	$4,323,960.00
1043	Carson Street Master Plan	Gruen Associates		11/16/2010	$795,059.00			$795,059.00
sub TOTALS					**$30,038,241.95**	**$0.00**	**$9,599,025.00**	**$38,637,266.95**

EXHIBIT NO. 02

17

CRA Funded project (CRA Amount only) **1/17/2012**

Proj No.	Description	Engineer/ Construction Manager	Contractor	Date Awarded/ Amended	CRA Contract Amount		Other Funds	Total Cost
					Awarded	To be Awarded		
919	Wilmington Avenue Interchange Modification at the I-405 Freeway		To Be Advertised			$6,703,788.00	$11,362,000.00 MTA $4,000,000.00 Fed	$22,065,788.00
919	Wilmington Avenue Interchange Modification at the I-405 Freeway	Right of way		TBD		$1,500,000.00		$1,500,000.00
675	Sepulveda Widening, Alameda Street to East City Limit		To Be Advertised			$1,100,000.00	$1,300,000.00 Fed	$5,100,000.00
							$2,700,000.00 ICTF	
839	Broadway ImprovementsMain Street to Griffith street		To Be Advertised			$982,900.00		$982,900.00
1297	FY 2011-12 Citywide Annual Overlay		To Be Advertised			$500,000.00	$450,000.00 State $250,000.00 Gas Tax	$1,200,000.00
1003	223rd Street Improvement from Lucerne to Alameda		To Be Advertised			$4,799,679.00		$4,799,679.00
1043	Carson Street Master Plan		To Be Advertised			$4,000,000.00		$4,000,000.00
sub TOTALS					**$0.00**	**$19,586,367.00**	**$20,062,000.00**	**$39,648,367.00**
TOTALS					**$30,038,241.95**	**$19,586,367.00**	**$29,661,025.00**	**$78,285,633.95**

IN MEMORIAM -- OAKLAND REDEVELOPMENT AGENCY, 1956-2012

OAKLAND, CA -- The Oakland Redevelopment Agency passed away peacefully at midnight on February 1 at age 55. Cause of death was listed as ABX 26 flu, complicated by acute EOPS poisoning. ORA, as she was affectionately known, was born on October 10, 1956. During ORA's busy life, she was best known for transforming downtown Oakland. She helped rehabilitate the Paramount Theater, Fox Theater, Tribune Towers, Rotunda, Swans Market, Preservation Park, Broadway Building and other historic structures. She developed City Center, Pacific Renaissance Plaza, Oakland Convention Center, Marriott Hotel, Dellums Federal Building, Uptown, Market Square, Landmark Place, Old Town Square, Domain, Yoshi's, Fruitvale Transit Village, Zhone campus, UC Office of the President, and many other projects, not to mention hundreds of neighborhood improvements. She was especially proud of the thousands of affordable housing units she helped produce for low income renters and homeowners. She even helped build the State of California's downtown headquarters, but was later abandoned by an ungrateful State legislature and supreme court. She was estranged from her former CEO, Edmund G. Brown of San Francisco, Calif. They had a whirlwind romance in the early part of this century as ORA worked hard to make Mr. Brown's 10K housing plan a reality; but he later left her for higher office and even tried to seize her life savings, which he claimed was his community property.

She is survived by her successor agency, the City of Oakland, three Project Area Committees, ten project areas, and 159 employees. In lieu of flowers, donations may be sent to the Local 21 COBRA Fund.

EXHIBIT NO. 03