



**Second Implementation Agreement  
to Owner Participation Agreement  
With Ballpark Village LLC.**



**Countywide Redevelopment Successor  
Agency Oversight Board**

**March 21, 2019**

**Presented by: Jeff Zinner, Senior Project Manager**

# Requested actions

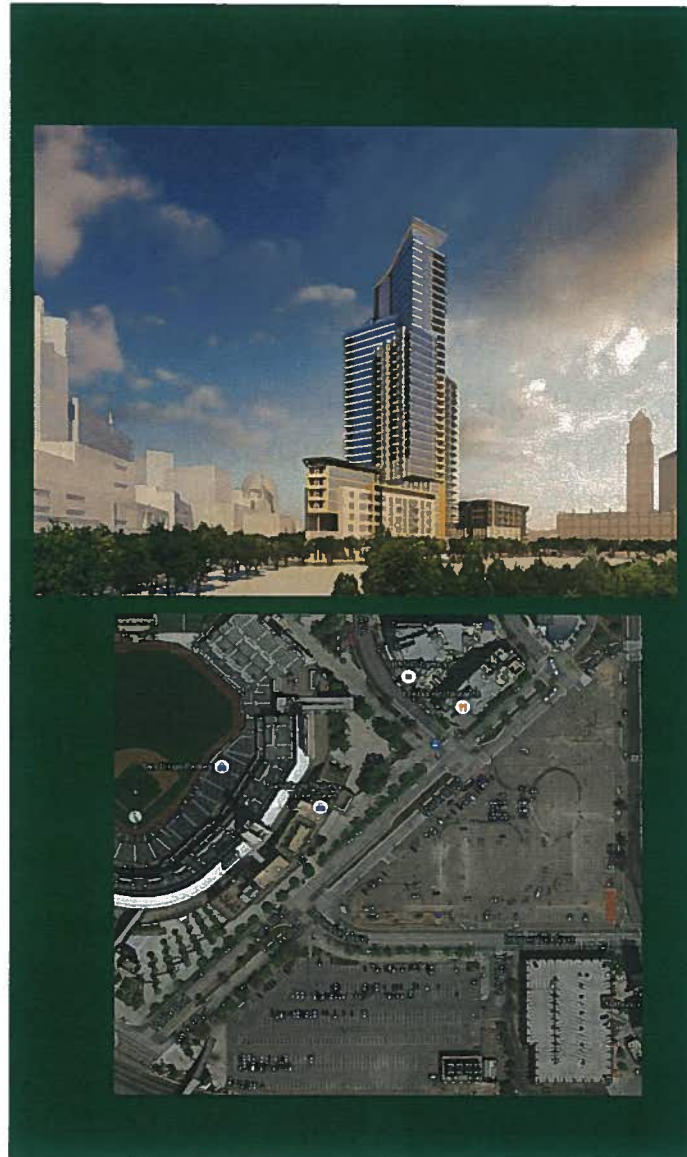
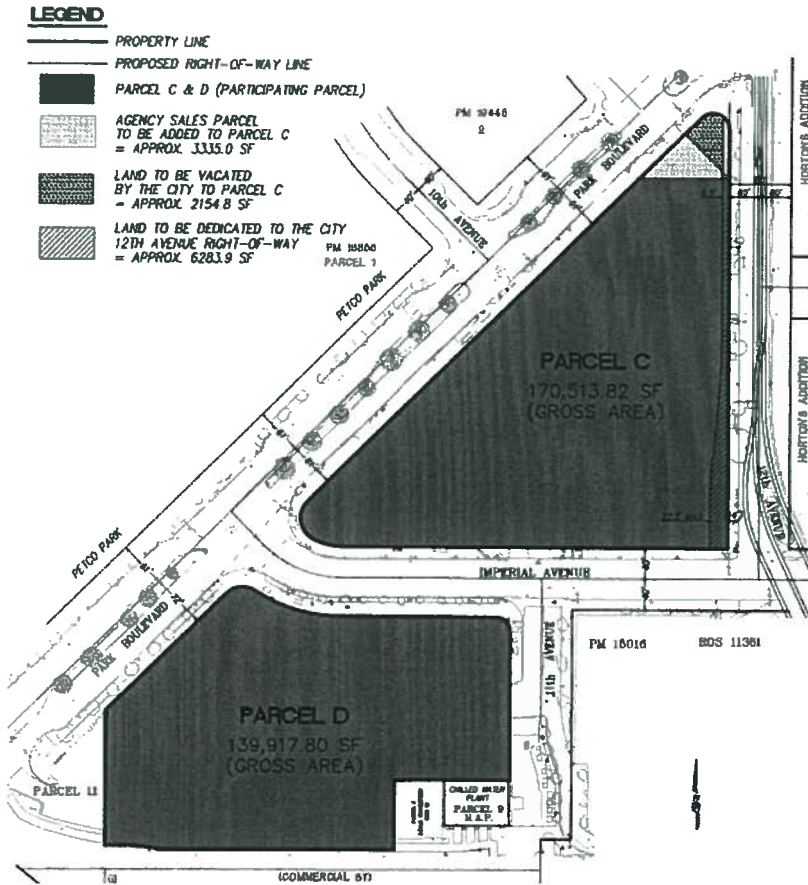
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That the Countywide Redevelopment Successor Agency Oversight Board:

- Adopts a Resolution approving the proposed Second Implementation Agreement (SIA) to the Owner Participation Agreement, as amended, (OPA) between the Successor Agency and Ballpark Village, LLC (BPV); and

# Site Map - OPA

## SITE MAP



# Second Implementation Agreement



The proposed Second Implementation Agreement will:

- Reinstate provision to permit Ballpark Village to utilize the transfer of approximately 804,000 square feet of floor area ratio from the Petco Park site to Parcel D and extend the deadline until January 2024 to implement this provision.
- Delete references to a 16,500 cumulative cap of Average Daily Trips (ADT) as this limit was superseded by the 2006 Downtown Community Plan traffic analysis, and the Ballpark District limits on ADT were deleted from the Centre City Planned District Ordinance (CCPDO).

*The SIA does not grant any additional rights to the developer beyond the reinstatement and time extension, and at this time there is no specific project proposed for Parcel D.*

# Summary



Approval of the proposed SIA:

- Allows higher intensity development of the Parcel D site as envisioned by the OPA
- Facilitates the developers ability to market and develop plans for a specific Parcel D development
- Simply reinstates a provision that was part of the original OPA



## Second Implementation Agreement

to Owner Participation Agreement  
With Ballpark Village LLC.



[www.civicsd.com](http://www.civicsd.com)



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March 20, 2019

Ms. Sheryl Bennett, Director of Administrative Services  
City of Escondido  
201 North Broadway  
Escondido, CA 92025

Dear Ms. Bennett:

Subject: 2019-20 Annual Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the City of Escondido Successor Agency (Agency) submitted an annual Recognized Obligation Payment Schedule for the period of July 1, 2019 through June 30, 2020 (ROPS 19-20) to the California Department of Finance (Finance) on January 22, 2019. Finance has completed its review of the ROPS 19-20.

Based on a sample of line items reviewed and application of the law, Finance is approving all of the items listed on the ROPS 19-20 at this time. However, Finance notes the following:

The administrative costs claimed are within the fiscal year administrative cap pursuant to HSC section 34171 (b) (3). However, Finance notes the OB has approved an amount that appears excessive, given the number and nature of the obligations listed on the ROPS. HSC section 34179 (i) requires the OB to exercise a fiduciary duty to the taxing entities. Therefore, Finance encourages the OB to apply adequate oversight when evaluating the administrative resources necessary to successfully wind-down the Agency.

Pursuant to HSC section 34186, successor agencies are required to report differences between actual payments and past estimated obligations. Reported differences in Redevelopment Property Tax Trust Fund (RPTTF) are used to offset current RPTTF distributions. The amount of RPTTF approved in the table on Page 3 includes the prior period adjustment resulting from the CAC's review of the prior period adjustment form submitted by the Agency.

The Agency's maximum approved RPTTF distribution for the reporting period is \$3,461,324 as summarized in the Approved RPTTF Distribution table on Page 3 (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1 through December 31 period (ROPS A period), and one distribution for the January 1 through June 30 period (ROPS B period) based on Finance approved amounts. Since this determination is for the entire ROPS 19-20 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

Absent a Meet and Confer, this is our final determination regarding the obligations listed on the ROPS 19-20. This determination only applies to items when funding was requested for the 12-month period. If a denial by Finance in a previous ROPS is currently the subject of litigation, the item will continue to be denied until the matter is resolved.

Ms. Sheryl Bennett  
March 20, 2019  
Page 2

The ROPS 19-20 form submitted by the Agency and this determination letter will be posted on our website:

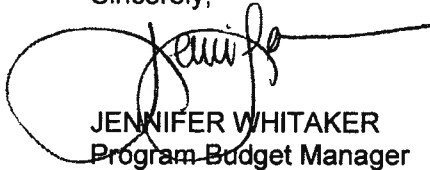
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This determination is effective for the ROPS 19-20 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if not denied on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items is limited to confirming the scheduled payments as required by the obligation.

The amount available from RPTTF is the same as the amount of property tax increment available prior to the enactment of redevelopment dissolution law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in RPTTF.

Please direct inquiries to Joshua Mortimer, Supervisor, or Jared Smith, Lead Analyst, at (916) 322-2985.

Sincerely,



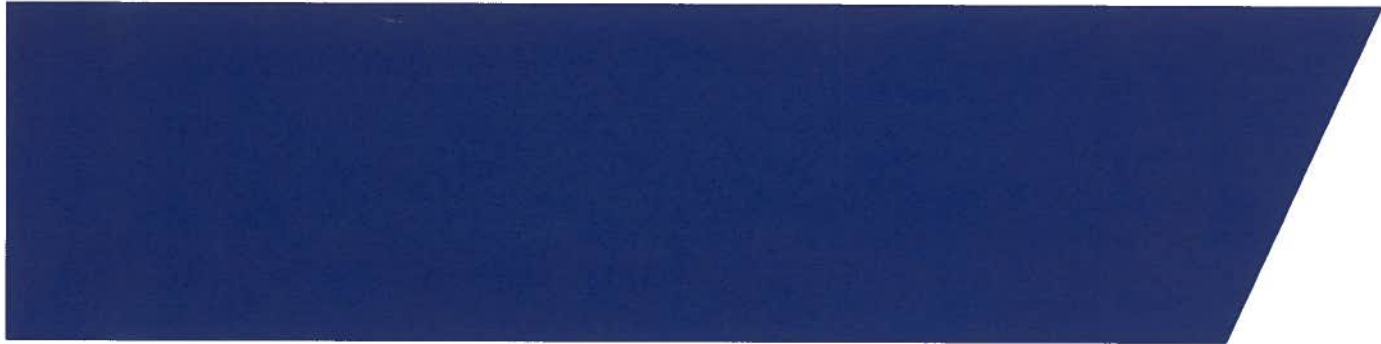
JENNIFER WHITAKER  
Program Budget Manager

cc: Ms. Joan Ryan, Assistant Finance Director, City of Escondido  
Mr. Jon Baker, Senior Auditor and Controller Manager, San Diego County



**Attachment**

<b>Approved RPTTF Distribution</b>			
<b>For the period of July 1, 2019 through June 30, 2020</b>			
	<b>ROPS A Period</b>	<b>ROPS B Period</b>	<b>ROPS 19-20 Total</b>
RPTTF Requested	\$ 3,322,326	\$ 0	\$ 3,322,326
Administrative RPTTF Requested	125,000	125,000	250,000
<b>Total RPTTF Requested</b>	<b>3,447,326</b>	<b>125,000</b>	<b>3,572,326</b>
RPTTF Authorized	3,322,326	0	3,322,326
Administrative RPTTF Authorized	125,000	125,000	250,000
<b>Total RPTTF Authorized for Obligations</b>	<b>3,447,326</b>	<b>125,000</b>	<b>3,572,326</b>
Prior Period Adjustment	(111,002)	0	(111,002)
<b>Total RPTTF Approved for Distribution</b>	<b>\$ 3,336,324</b>	<b>\$ 125,000</b>	<b>\$ 3,461,324</b>



# Oversight Board Meeting

March 21, 2019



# Background of Agency's Actions

- Traffic Loan Payment – Item #7 on ROPS 2019/20
- 2012-2018 Annual ROPS Payment – \$50,000
  - Followed Estimated Repayment Schedule for the Traffic Loan
- February 2018 – Districts Flag Issue for Agency/City
  - Explain potential harm from prepayment of the Traffic Loan
  - Local oversight board members raise concerns about same issue
- December 2018 – **\$953,953.00** Prepayment on 2019/20 ROPS
  - No prior notice or explanation to the Districts
  - No info to Countywide Oversight Board on fiscal impact to Districts

# 2009 Settlement Agreement - ACTIVE

- Districts still receiving pass-through payments under 2009 Agreement
  - Section 18 – City/Agency must give prompt written notice if unable to fulfill obligations
  - Section 16 – Parties required to go through Dispute Resolution Process
18. Uncontrollable Force. None of the Parties shall be considered to be in default in the performance of any of its obligations under this Agreement when a failure of performance is due to an uncontrollable force. The term "uncontrollable force" means: an action of the elements, terrorism; the act or threat of any public enemy; Acts of God; court or agency order or Legislation adopted by the State Legislature or Congress fundamentally altering the statutory scheme on which this Agreement is based, except as protected by the federal or California Constitution; war and war defense conditions; strikes or other labor disputes; fire, earthquake, flood or other natural disasters; or other causes beyond the control of one or more Parties. Each Party shall use reasonable diligence to avoid any such delay or default and to resume performance under this Agreement as promptly as possible after any such delay or default. However, nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give prompt written notice of such fact to the other Parties and shall exercise due diligence to remove such inability to the fullest extent practicable with all reasonable dispatch.

# 2009 Settlement Agreement - ACTIVE

- US Constitution and California Constitution prohibit retroactive impairment of contracts
- Health and Safety Code section 34175 (b)
  - All assets, properties, *contracts*, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part...Any legal or contractual restrictions on the use of these funds or assets shall also be transferred to the successor agency.
- Districts only agreed to the 2009 Settlement Agreement because they expected to receive pass-through payments through 2035/36 – now payments will end at least 10 years earlier if not sooner.

# Impact on the School Districts

- **\$4.3 million** loss per year for EUSD
- **\$3.5 million** loss per year for EUHSD
- **\$700,000+** loss per year for SDCOE
- Total \$7+ million per year loss > \$1.4 m gain to City
- Debt Service – Districts relied on pass-through payments through 2035/36 to repay loans
- Facilities Money – Not backfilled by the State, the Districts will never be made whole for loss

# Oversight Board Powers and Duties

- HSC Section 34179 (i) -
  - “Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188.”
- Fiduciary Duty –
  - A legal **obligation** of one party to act in the best interest of another.
  - “A fiduciary relationship exists when one of the parties to a transaction is required to act with the utmost good faith for the benefit of the other.” (*People v. Rizzo* (2013) 214 Cal.App.4th 921, 950.)
- HSC Section 34179 (p) –
  - “On matters within the purview of the oversight board, decisions made by the oversight board supersede those made by the successor agency or the staff of the successor agency.”

# Proposed Solutions

- ROPS Amendment before October 1, 2019

OR

- Request that Agency delay payment on Item #7 until FY 2020/21

OR

- Retroactively Reject Item #7 on the ROPS based on this new information and notify DOF





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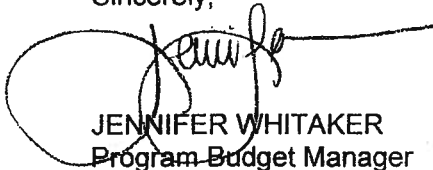
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