

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY ACTING AS THE SUCCESSOR AGENCY OF THE APPLE VALLEY REDEVELOPMENT AGENCY APPROVING AND ADOPTING AN AMENDMENT TO ITS ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO PART 1.8 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AS PROVIDED BY ABX1 26

Summary Statement:

The Town Council, at its meeting of January 10, 2012, adopted Resolution No. 2012-03 designating the Town as the successor agency to the Redevelopment Agency of the Town of Apple Valley ("Agency"). The Council also adopted RDA Resolution No. 2012-01 which included a revised and previously adopted Enforceable Obligation Payment Schedule ("EOPS") to extend the operative period of the EOPS from December 31, 2011 to April 30, 2012.

As a result of continued analysis and interpretation of the definition of "Enforceable Obligations" pertaining to the recently chaptered ABx1 26, it is appropriate for the newly established successor agency to revise the operative period of the EOPS from April 30, 2012 to June 30, 2012 and to incorporate several key additions to the EOPS worksheet. These additions include consultant and construction services associated with the Yucca Loma Bridge Project; consultant services associated with the wind-down efforts of the former Agency; a five (5) percent Administrative Allowance for wind-down activities during the term of the EOPS; and, service delivery costs associated with certain capital improvement projects.

(Continued)

Recommendation:

That the Town Council adopt the attached Resolution No. 2012-06 revising the previously adopted Enforceable Obligation Payment Schedule ("EOPS") and to extend the operative period of the EOPS from April 30, 2012 to June 31, 2012.

Proposed by: Economic and Community Development **Item Number** _____

Town Manager Approval: _____ **Budgeted Item** Yes No N/A

Summary Statement
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The attached resolution includes a revised EOPS, setting forth the enforceable obligations and the amount of payments to be made for each of them, by month, from January, 2012 through June, 2012. This EOPS shall be operative even after the Agency is dissolved on February 1, 2012, and, the Town as successor agency to the Agency, shall continue to make payments in accordance with the EOPS until the ROPS is operative on May 1, 2012.

Pursuant to Health and Safety Code section 34169, the revised EOPS shall be transmitted to the county auditor-controller, the Controller, and the Department of Finance, and shall be posted on the Town's website.

Based upon the foregoing, staff recommends adoption of Resolution 2012-06.

RESOLUTION NO. 2012-06

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY ACTING AS THE SUCCESSOR AGENCY OF THE APPLE VALLEY REDEVELOPMENT AGENCY APPROVING AND ADOPTING AN AMENDMENT TO ITS ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO PART 1.8 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AS PROVIDED BY AB 1X 26

WHEREAS, AB 1X 26 provides that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, pursuant to the Community Redevelopment Law (Health & Saf. Code, § 33000 et seq.), the Town Council of the Town of Apple Valley (“Town”) created the Redevelopment Agency of the Town of Apple Valley (“Agency”); and

WHEREAS, the Agency has been responsible for implementing the Redevelopment Plan for the Apple Valley Redevelopment Project covering certain properties within the Town (“Project Area”); and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed , companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861) (“Litigation”), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and

WHEREAS, on August 11, 2011, and modified on August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and AB 1X 27 in its entirety during the pendency of the matter; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the Litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, Health and Safety Code section 34169, enacted by AB 1X 26, requires redevelopment agencies to adopt, by August 27, 2011, an Enforceable Obligation Payment Schedule (“EOPS”) setting forth the enforceable obligations of the Agency and the amounts of payments obligated to be made, by month, through December, 2011; and

WHEREAS, adoption of the EOPS would allow the Agency to make payments on debts and obligations listed on the EOPS for as long as the EOPS is operative; and

WHEREAS, the Agency adopted an EOPS by Resolution No. 2011-04 on August 25, 2011; and

WHEREAS, Health and Safety Code section 34177(l)(3), enacted by AB 1X 26, provides that the successor agency to the Agency, after the Agency's dissolution, is to adopt a Recognized Obligation Payment Schedule ("ROPS") succeeding the EOPS prior to January 1, 2012; and

WHEREAS, the California Supreme Court, in the Litigation, extended the operative date of the ROPS to May 1, 2012; and

WHEREAS, Health and Safety Code section 34177(a)(1), enacted by AB 1X 26, requires that until an ROPS becomes operative, only payments required pursuant to an EOPS shall be made; and

WHEREAS, Health and Safety Code section 34177(a)(1) also provides that according to Health and Safety Code section 34171(d)(2), as of February 1, 2012, any agreements, contracts or arrangements between the Town and the Agency shall be excluded from the list of enforceable obligations in the EOPS; and

WHEREAS, Health and Safety Code section 34171(d)(2) provides that the revised EOPS may include debts or obligations be paid by the Agency to the Town only if the debts or obligations are pursuant to (1) written agreements between the Town and the Agency entered into prior to December 31, 2010, solely for the purpose of securing or repaying indebtedness obligations; or (2) loan agreements entered into between the Agency and the Town within two years of the date of creation of the Agency; and

WHEREAS, because the previously adopted EOPS is operative only through December 31, 2011, it must be revised to be operative from January 1, 2012 through April 30, 2012; and

WHEREAS, on January 10, 2012, the Town Council adopted Resolution 2012-03 to serve as the successor agency of the Agency and also RDA Resolution No. 2012-01 adopting a revised and previously adopted EOPS to extend the operative period of the EOPS from December 31, 2011 to April 30, 2012.

NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED AND ORDERED BY THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AS FOLLOWS:

1. The Recitals set forth above are true and correct and incorporated herein by reference.
2. The determination given in this Resolution does not commit the Town to any action that may have a significant effect on the environment. As a result, such approval does not constitute a project subject to the requirements of the California Environmental Quality Act. The Town directs Town staff to file a Notice of Exemption within five (5) days following adoption of this Resolution with the Clerk of the Board of Supervisors of the County of San Bernardino.
3. The Town hereby approves and adopts the revised Enforceable Obligation Payment Schedule, in substantially the form attached hereto as Exhibit A, as required by Health and Safety Code Section 34169.
4. The Town Manager is hereby authorized and directed to post a copy of the EOPS on the Town's website. The Town Manager is further authorized and directed to transmit, by mail or electronic means, to the San Bernardino County Auditor-Controller, the State Controller and the Department of Finance, notification providing the website location of the posted EOPS and other information as required by AB 1X 26.

5. Pursuant to Health and Safety Code Section 34169(i), the Town's action to adopt the EOPS as set forth herein shall not be effective for three (3) business days following adoption of this Resolution, pending a request for review of the EOPS by the Department of Finance.
6. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Town Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.
7. The Town Clerk shall certify to the adoption of this Resolution.
8. This Resolution shall become effective upon its adoption.

PASSED, APPROVED AND ADOPTED this 24th day of January, 2012 by the Town Council of the Town of Apple Valley.

MAYOR

ATTEST:

TOWN CLERK

EXHIBIT A

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

[Attached behind this page]

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34167 and 34169 (*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by Month						Total	
					Jan	Feb	Mar	Apr	May	June		
1) 2005 Tax Allocation Bonds	US Bank	Fund capital improvements	\$12,266,478	\$508,095								\$0
2) 2007 Tax Allocation Bonds	US Bank	Fund RDA activities	\$15,234,158	\$550,583								\$0
3) New Housing/RRLP/DAP	Various	Construction services	\$1,575,000	\$0								\$0
4) Administration	Town of Apple Valley	Operating Transfer	\$471,435	\$471,435								\$0
5) Contract for consulting services	McGregor Shott	Marketing Services	\$10,121	\$1,687	\$1,687	\$1,687	\$1,687	\$1,687	\$1,687	\$1,687	\$1,686	\$10,121
6) Contract for consulting services	BB&K	Legal counsel	\$24,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$24,000
7) Contract for consulting services	Keyser Marston	50-Unit Senior Project	\$19,000	\$3,167	\$3,167	\$3,167	\$3,167	\$3,167	\$3,167	\$3,167	\$3,165	\$19,000
8) Loan Agreement/DDA	AMCAL	50-Unit Senior Project	\$2,100,000	\$100,000	\$16,667	\$16,667	\$16,667	\$16,667	\$16,667	\$16,667	\$16,667	\$100,002
9) Loan to 80% for ERAF	20% Low Income Fund	Loan to pay ERAF	\$401,767	\$0								\$0
10) HELP Loan	Cal HFA	Loan for Down Payment Assistance	\$145,000	\$0								\$0
11) RDA Dissolution Implementation	Emily Wong	Professional Services	\$15,000	\$15,000	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$15,000
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21)												
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25)												
26)												
27)												
28)												
29) 5% Admin Allowance				\$84,912								
30) Subtotal				\$1,698,234								
Totals - This Page			\$32,761,959	\$1,783,146	\$28,021	\$28,021	\$28,021	\$28,021	\$28,021	\$28,021	\$28,018	\$168,123

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34167 and 34169 (*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by Month						Total	
					Jan	Feb	Mar	Apr	May	June		
1) 2007 Tax Allocation Bonds	US Bank	Fund (80%) RDA activities	\$54,539,395	\$2,092,111		\$1,046,056						\$1,046,056
2) 2007 Tax Allocation Bonds	US Bank	Fund (20%) Housing projects	\$7,437,190	\$293,589		\$146,795						\$146,795
3) Yucca Loma Bridge Construction	Various	Construction services	\$13,650,000	\$35,000			\$17,500					\$17,500
4) Loan Agreement/DDA	AMCAL	Senior Project Loan Agreement	\$2,643,730	\$100,000	\$16,667	\$16,667	\$16,667	\$16,667	\$16,667	\$16,667	\$16,667	\$100,000
5) Contract for consulting services	McGregor Shott	Marketing services	\$10,121	\$10,121	\$1,687	\$1,687	\$1,687	\$1,687	\$1,687	\$1,687	\$1,687	\$10,121
6) Contract for consulting services	BB&K	Legal counsel	\$24,000	\$24,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$12,000
7) New Housing/RRLP/DAP	Various	Construction services	\$1,575,000	\$0								\$0
8) Loan to 80% for ERAF	PA2 - 20 Percent Low Income F	Loan to Pay ERAF	\$375,506	\$0								\$0
9) Help Loan	Cal HFA	Loan for Down Payment Assistance	\$145,000	\$0								\$0
10) Yucca Loma Bridge	Dokken Engineering	Professional Services	\$1,223,912	\$600,000								\$600,000
11) RDA Dissolution Implementation	Emily Wong	Professional Services	\$15,000	\$15,000	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$15,000
12) Administration	Town of Apple Valley	Operating Transfer	\$471,436	\$471,436								\$471,436
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29) 5% Admin Allowance				\$182,063								\$182,063
30) Subtotal				\$3,641,257								\$3,641,257
Totals - This Page			\$82,110,290	\$3,823,320	\$22,854	\$22,854	\$1,215,705	\$22,854	\$40,354	\$40,354	\$40,351	\$1,364,972

OTHER OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34167 and 34169 (*)
TO BE SUBMITTED DIRECTLY FROM THE VICTOR VALLEY ECONOMIC DEVELOPMENT AGENCY

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by Month						Total
						Jan	Feb	Mar	Apr	May	June	
1)												\$0
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Totals - This Page						\$0	\$0	\$0	\$0	\$0	\$0	\$0

OTHER OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by Month					Total	
						Jan	Feb	Mar	Apr	May		June
1)		AV Parks and Rec			15,012							\$0
2)		AV Fire Protection Dist			33,935							\$0
3)		AV Unified School Dist			113,866							\$0
4)		County Sup of Schools			3,714							\$0
5)		Victor Valley College			24,401							\$0
6)		County of San Bern			68,745							\$0
7)		CSA 60-Victorville			3,769							\$0
8)		MD Resource Conserv Dist			18							\$0
9)		Mojave Water Agency			1,939							\$0
10)		Town of AV			17,193							\$0
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	Totals - Other Obligations			\$0	\$282,592	\$0	\$0	\$0	\$0	\$0	\$0	\$0