



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** April 10, 2012
From: Orlando Acevedo **Item No:** 11
 Economic Development Manager
Subject: Approve Amendment to First Recognized Obligation Payment
 Schedule (ROPS)

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That the Town Council adopt the attached SA Resolution No. 2012-02 approving an amendment to the first Recognized Obligation Payment Schedule (“ROPS”).

SUMMARY:

On February 28th, 2012, the Town Council acting as the Successor Agency adopted SA Resolution No. 2012-01, approving the first ROPS for the operative period from January 2012 through June 2012.

The attached resolution includes an amendment to that first ROPS, identifying the Employment Agreement, and Separation Agreement and Release with the former Agency Executive Director/Assistant Town Manager. This item is demonstrative of an “enforceable obligation” and should be clearly identified and separated from any general administrative obligations.

Based upon the foregoing, staff recommends adoption of SA Resolution 2012-02.

BACKGROUND:

The Town Council at its January 10th meeting adopted Resolution No. 2012-03 to serve as the successor agency of the former Redevelopment Agency of the Town of Apple Valley (“Agency”). The first ROPS was prepared by the Successor Agency and submitted to the Auditor-Controller prior to March 1, 2012. The Oversight Board of the Successor Agency approved the first ROPS on March 19, 2012, and it was subsequently submitted to the State Department of Finance.

Upon approval by the Successor Agency this evening, the Amendment will be submitted to the Oversight Board for review and approval.

Upon approval by the Oversight Board at its meeting of April 16, 2012, the Successor Agency will provide a copy of the Amendment to the first ROPS to the Auditor-Controller, the State of California Department of Finance, and the State Controller, and post the approved ROPS on the Successor Agency’s website. Pursuant to Health and Safety Code section 34179(h), because the Department of Finance may review Oversight Board actions, the Oversight Board’s action to

approve the Amendment to the first ROPS is not effective for three business days, pending a request for review by the Department of Finance.

A third ROPS will need to be approved prior to December 30 for the period of January 2013 through June 2013 and every six months thereafter.

FISCAL IMPACT:

On February 1, 2012, all redevelopment agencies were dissolved and successor agencies assumed the responsibilities of winding down the agencies' affairs and paying off debts. The ROPS outlines the former Agency's obligations, including debts and contracts that must be paid, in six-month fiscal periods. The Successor Agency will be responsible for paying off the enforceable obligations listed on the ROPS with funds remitted to the Successor Agency from the Redevelopment Property Tax Trust Fund, managed by the County Auditor-Controller. The Town's liabilities, as the Successor Agency, will be limited to the amount of property tax received to pay enforceable obligations.

Pursuant to Health and Safety Code section 34177(j), the Successor Agency is required to prepare a proposed administrative budget ("Budget") and submit it for approval to the Oversight Board. The Budget is required to include all of the following: (1) estimated amounts for Successor Agency administrative costs for the same sixth period as the ROPS; (2) proposed sources of payment for all administrative costs; (3) proposals for arrangements for administrative and operations services provided by the Town of Apple Valley.

The addition of the Amendment will reduce the impact of the administrative burdens of the former AVRDA to the Town's general fund.

SA RESOLUTION NO. 2012-02

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY ACTING AS THE SUCCESSOR AGENCY OF THE APPLE VALLEY REDEVELOPMENT AGENCY APPROVING A RECOGNIZED 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, 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(1)(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 March 1, 2012; and

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

WHEREAS, pursuant to Health and Safety Code section 34173(d), the Town of Apple Valley (“RDA Successor Agency”) is the successor agency to the dissolved Redevelopment Agency of the Town of Apple Valley (“Agency”), confirmed by Resolution No. 2012-03 adopted on January 10, 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, 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 AS SUCCESSOR AGENCY OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AS FOLLOWS:

SECTION 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. CEQA Compliance. The determination given in this Resolution does not commit the RDA Successor Agency 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 RDA Successor Agency directs 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.

SECTION 3. Approval of the ROPS. The RDA Successor Agency hereby approves the Recognized Obligation Payment Schedule, in substantially the form attached hereto as Exhibit A, as required by Health and Safety Code Section 34169. The RDA Successor Agency staff is hereby authorized and directed to post a copy of the ROPS on the RDA Successor Agency's website. RDA Successor Agency staff is further authorized and directed to take such steps necessary to facilitate the approval by the Oversight Board's approval of the ROPS, and to transmit the ROPS, by mail or electronic means, to the San Bernardino County Auditor-Controller, the State Controller and the Department of Finance, and other information as required by AB 1X 26.

SECTION 4. Severability. 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 of the Town of Apple Valley acting as the RDA Successor Agency hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 5. Certification. The Town Clerk shall certify to the adoption of this Resolution.

SECTION 6. Effective Date. This Resolution shall become effective upon its adoption.

APPROVED AND ADOPTED this 10th day of April 2012.

MAYOR

ATTEST:

TOWN CLERK

EXHIBIT A

RECOGNIZED OBLIGATION PAYMENT SCHEDULE
For the period of January 2012 through June 2012

[Attached behind this page]

RECOGNIZED 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							341,548	341,548
2)	2007 Tax Allocation Bonds	US Bank	Fund RDA activities	15,234,158	550,583							355,291	355,291
3)	New Housing/RRLP/DAP	Various	Construction services	1,575,000	-								
4)	Administration	Town of Apple Valley	Operating Transfer	471,435	471,435								
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	1,686	10,121
6)	Contract for consulting services	BB&K	Legal counsel	24,000	24,000	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	19,000	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	100,000
9)	Loan to 80% for ERAF	20% Low Income Fund	Loan to pay ERAF	401,767	-								
10)	HELP Loan	Cal HFA	Loan for Down Payment Assistance	162,500	-								
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)	Employment agreement	former RDA Exec Dir	Separation agreement and release	50,453	27,167	6,792	6,792	6,792	6,792	6,792	6,792	6,792	27,168
13)													
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20)													
21)													
22)													
23)													
24)													
25)													
26)													
27)													
28)													
29)	5% Admin Allowance				\$86,270								
30)	Subtotal				\$1,725,401								\$87,628
	Totals - This Page			\$32,329,912	\$1,811,671	\$28,021	\$28,021	\$34,813	\$34,813	\$34,813	\$34,813	\$731,649	\$979,758

RECOGNIZED 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								
2) 2007 Tax Allocation Bonds	US Bank	Fund (20%) Housing projects	7,437,190	293,589							1,324,701	1,324,701
3) Yucca Loma Bridge Construction	Various	Construction services	13,650,000	35,000						17,500	215,649	215,649
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	17,500	35,000
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	1,686	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	-								-
8) Loan to 80% for ERAF	PA2 - 20 Percent Low Income F	Loan to Pay ERAF	375,506	-								-
9) Help Loan	Cal HFA	Loan for Down Payment Assistance	162,500	-								-
10) Yucca Loma Bridge	Dokken Engineering	Professional Services	1,223,912	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								
13) Employment agreement	former RDA Exec Dir	Separation agreement and release	50,453	27,167			6,792	6,792	6,792	6,792	6,792	27,168
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28)												
29) 5% Admin Allowance				\$183,421								\$183,421
30) Subtotal				\$3,668,424								\$3,668,424
Totals - This Page			\$82,178,243	\$3,851,845	\$22,854	\$22,854	\$29,646	\$29,646	\$47,146	\$47,146	\$1,587,493	\$1,923,060

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
2)												\$0
3)												\$0
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29)												\$0
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Totals - This Page					\$0	\$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											
						Jan	Feb	Mar	Apr	May	June	Total					
1)	Pass Through	AV Parks and Rec.	Redevelopment Prop Tax Trust Fund		15,012												
2)	Pass Through	AV Fire Protection Dist	Redevelopment Prop Tax Trust Fund		33,935												
3)	Pass Through	AV Unified School Dist	Redevelopment Prop Tax Trust Fund		113,866												
4)	Pass Through	County Sup of Schools	Redevelopment Prop Tax Trust Fund		3,714												
5)	Pass Through	Victor Valley College	Redevelopment Prop Tax Trust Fund		24,401												
6)	Pass Through	County of San Bern	Redevelopment Prop Tax Trust Fund		68,745												
7)	Pass Through	CSA 60-Victorville	Redevelopment Prop Tax Trust Fund		3,769												
8)	Pass Through	MD Resource Conserv Dist	Redevelopment Prop Tax Trust Fund		18												
9)	Pass Through	Mojave Water Agency	Redevelopment Prop Tax Trust Fund		1,939												
10)	Pass Through	Town of AV	Redevelopment Prop Tax Trust Fund		17,193												
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Totals - Other Obligations				\$0	\$282,592	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	

