



Town of Apple Valley

OVERSIGHT BOARD

OF THE SUCCESSOR AGENCY TO THE DISSOLVED
APPLE VALLEY REDEVELOPMENT AGENCY

AGENDA

REGULAR SESSION

MAY 7, 2012

4:00 P.M.

PLEASE SILENCE CELL PHONES AND PAGERS UPON ENTERING THE CHAMBERS

CALL TO ORDER

Roll Call

Pledge of Allegiance

PRESENTATIONS

Introduction and Oath of Office of New Board Members

PUBLIC COMMENT

BUSINESS ITEMS

1. Adoption of Minutes of the Oversight Board
 - A. Special Meeting - April 16, 2012
2. Adoption of Amendment to Second Recognized Obligation Payment Schedule (ROPS)

ADJOURN to Time and Date for Next Meeting



Town of Apple Valley

OVERSIGHT BOARD

OF THE SUCCESSOR AGENCY TO THE DISSOLVED APPLE VALLEY REDEVELOPMENT AGENCY

PUBLIC NOTICE

THE MEETING WILL OCCUR IN THE DSB CONFERENCE CENTER LOCATED AT 14975 DALE EVANS PARKWAY IN APPLE VALLEY, CALIFORNIA.

This agenda contains a brief description of each item of business to be considered at today's meeting. In accordance with the Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting.

The agenda, its supporting documents and all writings received by the Successor Agency related to these items are public records and available for review during regular business hours in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA, during normal business hours.

The agenda and its supporting documents can be viewed online at <http://www.applevalley.org>. However, the online agenda may not include all available supporting documents or the most current version of documents. Materials related to an item on this agenda submitted to the Oversight Board after distribution of the agenda packet are available for public inspection in the Town Clerk's Office.

In accordance with the Rules of Procedure members of the public may address the Oversight Board on any item on the agenda and on any matter that is within the Town Council's jurisdiction. To address the Town Council regarding an item, complete and submit the yellow card entitled Request to Speak. Please indicate on the card whether you are speaking under Public Comments or on an item that is listed on the agenda and please list the item number.

When called, approach the podium and please state your name before giving your presentation. Speakers may address the Oversight Board for up to three (3) minutes. Speakers are to address the Oversight Board as a whole through the Chairperson. Comments to individual Board Members and/or staff are not permitted.

Individuals, who demonstrate disruptive conduct during Town Council Meetings that prevent the Town Council from conducting its meeting in an orderly manner, are guilty of a misdemeanor as stated in Section 2.04.030 of the Town of Apple Valley Municipal Code and are subject to removal from the Chambers or arrest.

The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office at (760) 240-7000 two working days prior to the scheduled meeting for any requests for reasonable accommodations.

OVERSIGHT BOARD
OF THE SUCCESSOR AGENCY TO THE DISSOLVED
APPLE VALLEY REDEVELOPMENT AGENCY

To: Oversight Board **Date: May 7, 2012**
From: Orlando Acevedo, Economic Development Manager **Item No. 1**
Subject: Adoption of Minutes of the Oversight Board Meeting – April 16, 2012

RECOMMENDED ACTION

That the Oversight Board of the Successor Agency adopt the Minutes of the Oversight Board Meeting of April 16, 2012.

SUMMARY

- A. Oversight Board Meeting – April 16, 2012**

**TOWN OF APPLE VALLEY
OVERSIGHT BOARD**

**SPECIAL MEETING
MINUTES – April 16, 2012**

CALL TO ORDER:

The Town of Apple Valley Oversight Board meeting was called to order at 4:00 p.m.

ROLL CALL:

Roll call was taken with the following members present:

Board Member: Kevin Mahany; Matt Schullenberg; Barb Stanton; Vice-Chair Art Bishop; Chair Frank Robinson.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by staff member Orlando Acevedo

PRESENTATIONS:

La Vonda M-Pearson, Secretary, administered the Oath of Office to new member Kevin Mahany.

PUBLIC COMMENTS

None.

BUSINESS ITEMS

1. Adoption of Minutes of the Oversight Board Meeting – March 19, 2012

MOTION

Motion by Board Member Stanton, seconded by Vice-Chair Bishop, and unanimously carried, to approve the minutes of the Oversight Board Meeting dated March 19, 2012.

2. Adoption of Amendment for First Recognized Obligation Payment Schedule (ROPS)

Orlando Acevedo, Economic Development Manager, presented the staff report as filed with the Secretary.

Board Member Stanton stated and Mr. Acevedo clarified, that based on the state's determination Thursday the Town will know whether or not it can proceed with the projects listed on the ROPS.

Discussion ensued regarding whether or not a special meeting of the Oversight Board would be needed should the Department of Finance not approve the ROPS as submitted.

Elizabeth Hull, Legal Counsel for the Successor Agency, provided additional clarification regarding the ROPS.

Board Member Schulenberg asked questions regarding the payments listed on the ROPS. He believed a correction was needed on the line item dealing with the Yucca Loma Bridge project.

It was the consensus of the Oversight Board that a correction be made to line item 3 to read \$16,214 million instead of \$13,650 million.

Vice-Chair Bishop asked questions regarding the pass through's listed on Page 2-8.

Marc Puckett, Director of Finance, explained how the pass through's are being paid by the County prior to consideration of additional Enforceable Obligation Payments.

MOTION

Motion by Vice-Chair Bishop, seconded by Board Member Mahany, and unanimously carried, to adopt Resolution No. 2012-04, approving an amendment to the first Recognized Obligation Payment Schedule pursuant to Health and Safety Code Section 34177(l) as amended, correcting the dollar amount listed on Page 2-6, Line Item 3 – Yucca Loma Bridge Construction to \$16,214,000.

3. Approve Yucca Loma Bridge Agreement between Successor Agency and SANBAG

Orlando Acevedo, Economic Development Manager, presented the staff report as filed with the Secretary.

Ms. Hull explained that the funds are available and committed for the Yucca Loma Bridge.

Board Member Schulenberg asked questions regarding the Town's share cost for this project.

MOTION

Motion by Board Member Stanton, seconded by Vice-Chair Bishop, and unanimously carried, to adopt the attached OB Resolution No. 2012-05 approving the Funding Agreement with San Bernardino Associated Governments for Construction of the Yucca Loma Bridge over the Mojave River.

4. Adoption of Second Recognized Obligation Payment Schedule

Orlando Acevedo, Economic Development Manager, presented the staff report as filed with the Secretary. He explained that the Town Council/Successor Agency also reviewed this report at its last Town Council Meeting on April 10, 2012.

Chairman Robinson stated for the record that the Oversight Board recognizes the Successor Agency and the work that they have done in reviewing and approving the Recognized Obligation Payment Schedules; however the Oversight Board also recognizes its duty to review

and approve the payment schedules that are being presented and forwarded to the Department of State for approval.

Board Member Schulenberg expressed concern regarding items listed on the ROPS that could possibly generate a “red flag” and cause items to be questioned; especially if those items were not listed on previous ROPS.

MOTION

Motion by Vice-Chair Bishop, seconded by Board Member Mahany, and unanimously carried, to adopt OB Resolution No. 2012-06, approving the second Recognized Obligation Payment Schedule (ROPS) pursuant to health and Safety Code Section 34177(l).

COMMENTS

Elizabeth Hull, Legal Counsel to the Successor Agency, provided a brief update for the benefit of the new member of the Oversight Board, regarding the dissolution of the Redevelopment Agencies and the creation of Successor Agencies and Oversight Boards. She explained their duties and the duties of members of the Oversight Board.

ADJOURNMENT

MOTION

Motion by Chairperson Robinson, seconded by Board Member Stanton, and unanimously carried, to adjourn the meeting of the Oversight Board at 5:10 p.m.

Mayor

Town Clerk



Town of Apple Valley

OVERSIGHT BOARD

OF THE SUCCESSOR AGENCY TO THE DISSOLVED
APPLE VALLEY REDEVELOPMENT AGENCY

To: Oversight Board **Date:** May 7, 2012
From: Orlando Acevedo, Economic Development Manager **Item No.** 2
Subject: Adoption Of Amendment To Second Recognized Obligations Payment Schedule

RECOMMENDED ACTION:

That the Oversight Board of the Successor Agency to the dissolved Apple Valley Redevelopment Agency adopt the attached Resolution No. 2012-07 approving an amendment to the second Recognized Obligation Payment Schedule ("ROPS") pursuant to Health and Safety Code section 34177(l).

SUMMARY:

On March 19, 2012, the Oversight Board adopted Resolution No. 2012-02, approving the first ROPS, setting forth the enforceable obligations and the amount of payments to be made for each of them, by month, for the sixth month period from January 2012 through June 2012.

On April 16, the Oversight Board adopted Resolution No. 2012-06, approving the second ROPS for the operative period from July 2012 through December 2012.

ABx1 26 intended that as enforceable obligations are fully paid down they are to be removed from future ROPS, thus dissolving the Successor Agency of its remaining obligations and retiring the program and pass-through payments in their entirety as assets, bonds, projects and contracts are dissolved.

Because the second ROPS inadvertently and prematurely removed several enforceable obligations, the attached resolution includes an amendment to return three enforceable obligations to the second ROPS. Further, because the Town/Successor Agency did not receive pass-through tax increment for these activities in the first ROPS (their payment dates were not due in six month period from January 2012 through June 2012) the following items were not paid down and should have remained in the second ROPS until their payment due dates:

- New Housing/RRLP/DAP (AMCAL loan agreement attached)
- Loan to 80% for ERAF (RDA Resolution No. 2011-01 attached)
- HELP Loan (agreement attached)

Further, the funding source of the "AMCAL loan agreement" was listed incorrectly on the second ROPS as **Low-Moderate Income Housing Fund (LMIHF)** and not as **Bond Proceeds**. It is also corrected in the amendment (ROPS page 2). Finally, the Administrative Budget (ROPS page 3) was slightly reduced in order to reflect a balanced budget of \$250,000, which is the minimum administrative cost allowance available per fiscal year, pursuant to Health and Safety Code section 34171(b).

Based upon the foregoing, staff recommends adoption of Resolution 2012-07.

BACKGROUND:

The Successor Agency to the dissolved Redevelopment Agency of the Town of Apple Valley (“Agency”) may only pay the debts and obligations of the dissolved Redevelopment Agency provided on a Recognized Obligation Payment Schedule (“ROPS”). The Oversight Board of the Successor Agency is required to approve the ROPS, subject to review by the State of California Department of Finance (“DOF”), so that the Successor Agency may pay the dissolved Agency’s debts and obligations.

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 Oversight Board, the Successor Agency will provide a copy of the Amendment to the second 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 second 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.

Staff to the Successor Agency is in receipt of a letter from the Department of Finance disqualifying the following enforceable obligations from the first ROPS:

- New Housing/RRLP/DAP
- AMCAL Loan Agreement
- Yucca Loma Bridge Construction Project

Staff is preparing a formal rebuttal to the DOF determination and will apprise the Oversight Board of the status of this matter at the May 7th meeting.

RESOLUTION NO. 2012-07

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE DISSOLVED REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY, APPROVING AN AMENDMENT TO THE SECOND RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(L)

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(1)(2), as modified by the Supreme Court opinion in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861, requires the RDA Successor Agency to prepare a second “recognized obligation payment schedule” (“ROPS”) by April 15, 2012, listing outstanding obligations of the Agency to be performed by the RDA Successor Agency during the time period from July 1, 2012, through December 31, 2012; and

WHEREAS, Health and Safety Code section 34177(1)(2) requires the RDA Successor Agency to submit the ROPS to the Oversight Board of the RDA Successor Agency for approval and, upon such approval, the RDA Successor Agency is required to submit a copy of such approved ROPS to the County of San Bernardino Auditor-Controller, the California State Controller, and the State of California Department of Finance and post the approved ROPS on the RDA Successor Agency’s website; and

WHEREAS, Health and Safety Code section 34180(g) requires the Oversight Board to approve the RDA Successor Agency’s establishment of the ROPS prior to the RDA Successor Agency acting upon the ROPS; and

WHEREAS, the RDA Successor Agency approved a first ROPS by SA Resolution No. 2012-01 on February 28, 2012; and

WHEREAS, the Oversight Board of the RDA Successor Agency approved a first ROPS by Resolution No. 2012-02 on March 19, 2012; and

WHEREAS, staff to the RDA Successor Agency submitted the approved ROPS to the State Department of Finance; and

WHEREAS, a second ROPS for the period July 2012 through December 2012 is due prior to May 15, 2012; and

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE DISSOLVED REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. CEQA Compliance. The approval of the ROPS through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The Town

Clerk of the Town of Apple Valley, acting on behalf of the Oversight Board as its Secretary, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

SECTION 3. Approval of the ROPS. The Oversight Board hereby approves and adopts a second ROPS, in substantially the form attached to this Resolution as Exhibit A, pursuant to Health and Safety Code Section 34177.

SECTION 4. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 5. Certification. The Town Clerk of the Town of Apple Valley, acting on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

SECTION 6. Effective Date. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for three (3) business days, pending a request for review by the State of California Department of Finance.

APPROVED and **ADOPTED** this 7th day of May, 2012.

Oversight Board Chairperson

ATTEST:

Oversight Board Secretary

EXHIBIT A

A SECOND
RECOGNIZED OBLIGATION PAYMENT SCHEDULE
For the period of July 2012 through December 2012

[Attached behind this page]

RECOGNIZED OBLIGATION PAYMENT SCHEDULE - CONSOLIDATED
FILED FOR THE July 2012 to December 2012 PERIOD

Name of Successor Agency: Town of Apple Valley

	Current	
	Total Outstanding Debt or Obligation	Total Due During Fiscal Year
Outstanding Debt or Obligation	\$ 112,162,418.00	\$ 5,918,525.23
	Total Due for Six Month Period	
Outstanding Debt or Obligation	\$ 4,353,989.00	
Available Revenues other than anticipated funding from RPTTF	\$ -	
Enforceable Obligations paid with RPTTF	\$ 4,353,989.00	
Administrative Cost paid with RPTTF	\$ 134,000.00	
Pass-through Payments paid with RPTTF	\$ -	
Administrative Allowance (greater of 5% of anticipated Funding from RPTTF or 250,000. Note: Calculation should not include pass-through payments made with RPTTF. The RPTTF Administrative Cost figure above should not exceed this Administrative Cost Allowance figure)	\$ 250,000.00	

Certification of Oversight Board Chairman:
Pursuant to Section 34177(l) of the Health and Safety code,
I hereby certify that the above is a true and accurate Recognized
Enforceable Payment Schedule for the above named agency.

Name Title

Signature Date

Name of Redevelopment Agency: Town of Apple Valley
 Project Area(s): VVEDA and AVRDA PAZ

DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34177 (*)

Project Name / Debt Obligation	Execution Date of Contract or Agreement	Payee	Description	Project Area/Agency Code/Account Code(RR03-0000)	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2012-13	Funding Source	Payable from the Redevelopment Property Tax Trust Fund (RPTTF) Payments by month					Total		
								July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012		Dec 2012	
1) 2005 Tax Allocation Bonds	5/1/2005	US Bank	Fund capital improvements	VVEDA	11,758,383	512,213	Bonds						348,606	348,606	
2) 2007 Tax Allocation Bonds	6/1/2007	US Bank	Fund RDA activities	VVEDA	14,683,575	544,183	Bonds						352,092	352,092	
3) Loan Agreement/DDA	6/28/2011	AMCAL	50-Unit Senior Project	VVEDA	2,100,000	100,000	Bonds	8,333	8,333	8,333	8,333	8,333	8,333	49,998	
4) Employment agreement	11/1/2008	Ken Henderson	Separation agreement and release	VVEDA	23,286	23,286	LMHF	7,762	7,762	7,762				23,286	
5) New Housing/RLP/DAP	6/28/2011	AMCAL/Various	Construction services	VVEDA	1,575,000	-	LMHF								
6) Loan to 80% for ERAF	4/27/2011	LMHF	Loan to pay ERAF	VVEDA	401,767	401,767	RPTTF							401,767	
7) HELP Loan	11/5/2003	CAL FHA	Loan for Down Payment Assistance	VVEDA	162,500	162,500	LMHF							162,500	
8)															
9)															
10) 2007 Tax Allocation Bonds	7/1/2007	US Bank	Fund (80%) RDA activities	PA2	52,447,284	2,089,656	Bonds						1,386,932	1,386,932	
11) 2007 Tax Allocation Bonds	7/1/2007	US Bank	Fund (20%) Housing projects	PA2	7,143,601	293,244	Bonds						164,518	164,518	
12) Yucca Loma Bridge Corridor	7/1/2007	Various	Bond proceeds for construction services	PA2	16,214,000	210,000	Bonds	17,500	17,500	17,500	17,500	17,500	17,500	105,000	
13) Yucca Loma Bridge Corridor	4/2/2007	Dokken Engineering	Design services	PA2	625,000	625,000	RPTTF	103,833	103,833	103,833	103,833	103,833	103,833	625,000	
14) Yucca Loma Bridge Corridor	11/8/2005	CAA Engineering	Project management services	PA2	250,000	125,000	RPTTF	20,833	20,833	20,833	20,833	20,833	20,833	125,000	
15) Employment agreement	11/1/2008	Ken Henderson	Separation agreement and release	PA2	23,286	23,286	RPTTF	7,762	7,762	7,762				23,286	
16) Loan Agreement/DDA	6/28/2011	AMCAL	Senior Project Loan Agreement	PA2	2,643,730	100,000	Bonds	8,333	8,333	8,333	8,333	8,333	8,333	49,998	
17) Loan to 80% for ERAF	4/27/2011	LMHF	Loan to pay ERAF	PA2	375,506	375,506	RPTTF							375,506	
18) New Housing/RLP/DAP	6/28/2011	AMCAL/Various	Construction services	PA2	1,575,000	-	LMHF								
19) HELP Loan	11/5/2003	CAL FHA	Loan for Down Payment Assistance	PA2	162,500	162,500	LMHF							162,500	
20)															
Totals - This Page (RPTTF Funding)															
Totals - Page 2 (Other Funding)															
Totals - Page 3 (Administrative Cost Allowance)															
Totals - Page 4 (Pass Thru Payments)															
Grand total - All Pages								174,356	174,356	174,356	158,832	158,832	158,832	3,513,257	4,353,989
RPTTF - Redevelopment Property Tax Trust Fund															
LMHF - Low and Moderate Income Housing Fund															
Other - reserves, rents, interest earnings, etc															
Admin - Successor Agency Administrative Allowance															

Name of Redevelopment Agency: Town of Apple Valley
 Project Area(s) WEDA and AVRDA PAZ

DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34177 (*)

Project Name / Debt Obligation	Payee	Description	Project Area/Agency Code/Account Code(RR01-RG01)	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2012-2013	Funding Source	Payable from the Administrative Allowance Allocation ****					Total
							July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012	
1) Personnel Services	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	178,997	178,997	RPTTF	14,916	14,916	14,916	14,916	14,916	89,499
2) Education and Training	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	6,000	6,000	RPTTF	500	500	500	500	500	3,000
3) Meetings and Conferences	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	1,000	1,000	RPTTF	83	83	83	83	83	500
4) Mileage	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	4,000	4,000	RPTTF	333	333	333	333	333	2,000
5) Office Expenses	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	2,000	2,000	RPTTF	167	167	167	167	167	1,000
6) Postage	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	500	500	RPTTF	42	42	42	42	42	250
7) Printing	Various	Dissolution Activities and Services	WEDA/AVRDA PA2	500	500	RPTTF	42	42	42	42	42	250
8) Audit	TBD	Dissolution Activities and Services	WEDA/AVRDA PA2	12,000	12,000	RPTTF	1,000	1,000	1,000	1,000	1,000	6,000
9) Contract Services	Emily Wong	Dissolution Activities and Services	WEDA/AVRDA PA2	18,000	18,000	RPTTF	6,000	6,000	6,000	6,000	6,000	18,000
10) Legal	BB&K	Dissolution Activities and Services	WEDA/AVRDA PA2	27,003	27,003	RPTTF	2,250	2,250	2,250	2,250	2,250	13,502
11)												
12)												
13)												
14)												
15)												
16)												
17)												
18)												
19)												
20)												
Totals - This Page				\$ 250,000	\$ 250,000							\$134,000
RPTTF - Redevelopment Property Tax Trust Fund							Bonds - Bond proceeds					
LMIHF - Low and Moderate Income Housing Fund							Admin - Successor Agency Administrative Allowance					
							Other - reserves, rents, interest earnings, etc					

LOAN AGREEMENT

between

**THE REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY
a public body, corporate and politic**

and

**AMCAL MULTI-HOUSING, INC.
a California corporation**

(Apple Valley Senior Apartments – Dale Evans Parkway and Thunderbird Road)

[Dated June 28, 2011 for reference purposes only]

LOAN AGREEMENT

THIS LOAN AGREEMENT (Apple Valley Senior Apartments – Dale Evans Parkway and Thunderbird Road) (“Loan Agreement”) is dated as of June 28, 2011, by and between the REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY, a public body, corporate and politic (“Agency”), and AMCAL MULTI-HOUSING, INC., a California corporation (“Developer”). Agency and Developer are sometimes referred to in this Loan Agreement individually as “Party” and collectively as “Parties.”

RECITALS

This Loan Agreement is entered into with reference to the following recitals of fact (“Recitals”):

WHEREAS, pursuant to the provisions of California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) (“CRL”), the Victor Valley Economic Development Authority (“VVEDA”) approved and adopted a redevelopment plan referred to as the 1993 Redevelopment Plan (“Redevelopment Plan”) for a project area commonly known as the 1993 Victor Valley Redevelopment Project Area (“Project Area”), which encompasses the territorial jurisdiction of the Town of Apple Valley (“Town”).

WHEREAS, the boundaries of the Project Area were approved by the Town by Resolution Number 93-70, effective November 23, 1993, as to that portion of the Project Area located within the territorial jurisdiction of the Town.

WHEREAS, pursuant to the Joint Powers Agreement governing the operation and management of VVEDA each participating entity receives its proportionate share of tax increment, including Low and Moderate Housing Set Aside Funds.

WHEREAS, the Agency is engaged in activities to implement the Redevelopment Plan for that portion of the Project Area located within the Town, including the development of affordable housing within the Project Area.

WHEREAS, the Agency owns an approximately 4.59 acre parcel of real property located within the Project Area commonly referred to as Assessor Parcel Number 0441-133-01, located at the northwest corner of Dale Evans Parkway and Thunderbird Road in the Town (“Property”).

WHEREAS, the Agency and the Town conducted a request for proposals process (“RFP”) pursuant to which the Agency and Town sought proposals for a development entity to design and construct an affordable senior rental housing project in the Project Area.

WHEREAS, pursuant to the RFP, Developer submitted a proposal to design, develop and operate a project consisting of one (1) non-restricted residential unit for an on-site manager and forty-nine (49) low and very low income senior affordable housing rental units, and all related on- and off-site improvements.

WHEREAS, Developer was selected by the Town Council and the Agency’s governing board (“Agency Board”) to fund, design and construct the Project, with funding assistance from the Agency as described herein.

WHEREAS, the Parties intend to timely negotiate the terms and conditions of a disposition and development agreement (“DDA”) in order to effectuate the transfer of the Property to Developer for the purposes of development of the Project, and to provide for Agency financial assistance to the Project, all as further described herein.

WHEREAS, pursuant to the CRL Section 33334.2 and 33334.3, the VVEDA and the Agency are required to set aside 20% of the general property tax increment allocation for the purposes of increasing, providing and preserving the community’s supply of low and moderate income housing available at an affordable housing cost to persons and families of low or moderate income (“Set-Aside Funds”).

WHEREAS, VVEDA and the Agency are required to timely expend the Set-Aside Funds for the purposes identified above, and is restricted from accumulating an “excess surplus” of these funds, as that term is defined in CRL Section 33334.12.

WHEREAS, in order to avoid penalties that may be imposed pursuant to CRL Section 33334.12 as a result of an excess surplus of Set-Aside Funds by the Agency, and to ensure that these funds will be available for the Project, the Agency must immediately encumber these funds for the Project.

WHEREAS, the purpose of this Loan Agreement is to encumber the Set-Aside Funds for the Project during the pendency of negotiations of the DDA.

WHEREAS, the Parties understand and agree that the funding allocated pursuant to this Loan Agreement is in an amount sufficient to avoid any violation of the excess surplus rules, and may not constitute the entire Agency funding anticipated to be provided to Developer for the Project.

WHEREAS, following refinement of the Project components and a financial analysis of the anticipated Project, the Parties acknowledge that additional Agency funds may be necessary and requested by the Developer to ensure the feasibility of the development of the Project.

WHEREAS, the Parties understand and agree that any obligation of the Agency to provide the Agency Loan, as further described herein, shall be expressly contingent on, among other things, the execution of a DDA that is mutually agreeable to both Parties, and the satisfaction of all funding contingencies contained therein.

NOW, THEREFORE, in consideration of the above referenced facts and for the covenants and agreements contained herein, the Parties hereto agree as follows:

ARTICLE 1

EFFECTIVE DATE; PARTIES; DEFINITIONS

1.1 **Effective Date of Agreement.** This Loan Agreement shall not become legally effective or binding until the date ("Effective Date") on which this Loan Agreement has been approved by the Agency Board, and executed by the Agency's and Developer's duly authorized representatives. Agency shall confirm the Effective Date to Developer in writing within five (5) business days of the Effective Date.

1.2 **Parties to Loan Agreement.**

1.2.1 **The Agency.** The address of the Agency is 14955 Dale Evans Parkway Apple Valley, CA 92307; Attention: Assistant Town Manager; telephone (760) 240-7000, ext. 7900; facsimile (760) 240-7910.

1.2.2 **The Developer.** The address of the Developer is 30141 Agoura Road, Suite 100, Agoura Hills, CA 91301, Attention: Frank Chang; telephone (818) 706-0694 x 186; facsimile (818) 899-9158.

1.3 **Definitions.** All initially capitalized terms used in this Loan Agreement shall have the meanings set forth below or, if not set forth below, where such terms first appear in this Loan Agreement.

1.3.1 **"Affordable Rent"** means as set forth in California Health and Safety Code Section 50053, as that section may hereafter be amended from time-to-time, and shall provide an allowance for utilities and maintenance costs established by the State of California Department of Housing and Community Development from time to time, in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

1.3.2 **"Agency"** means the Redevelopment Agency of the Town of Apple Valley, a California public agency, corporate and politic, and any nominee, assignee of, or successor to its rights, powers and responsibilities.

1.3.3 **"Agency Loan"** means the amount of \$3,000,000 from the Agency's Low and Moderate Income Housing Funds to be loaned by the Agency to Developer, upon satisfaction of all conditions precedent set forth herein, and to be set forth in the DDA, for the purposes developing and constructing the Project.

1.3.4 “**AMI**” means the area median income for San Bernardino County, California.

1.3.5 “**Close of Escrow**” means the date on which the grant deed transferring the Agency’s interest in the Property to the Developer is recorded in the official records of San Bernardino County, and as shall be further defined in the DDA.

1.3.6 “**CRL**” or “**Community Redevelopment Law**” means the California Community Redevelopment Law, California Health and Safety Code Sections 33000, et seq., as it may be amended from time to time.

1.3.7 “**Developer**” means AMCAL Multi-Housing, Inc., a California corporation, and any nominee, assignee of, or successor to its rights, powers and responsibilities approved in writing by Agency.

1.3.8 “**Project**” means the design, development and operation of a senior affordable housing development consisting of approximately fifty (50) units, one of which shall be set aside for a resident manager and the remainder shall be restricted to Qualified Households, and including all related on and off-site improvements, and all other amenities as presented in the Proposal or as subsequently negotiated by the Parties. The Parties acknowledge that Developer has submitted multiple variations of the same basic project. The Project eligible for funding shall be in substantial conformance with the Proposal.

1.3.9 “**Project Area**” means the project area commonly known as the 1993 Victor Valley Redevelopment Project Area, which encompasses the territorial jurisdiction of the Town, the boundaries of which were approved by the Town by Resolution Number 93-70, effective November 23, 1993, as to that portion of the Project Area located within the territorial jurisdiction of the Town.

1.3.10 “**Proposal**” means the Developer’s proposal, dated April 27, 2011, and submitted to the Town and the Agency in response to the RFP, as well as any adjustments to the Developer’s proposal presented at the public hearing before the Town Council and Agency Board held on June 2, 2011. The Proposal is incorporated into this Loan Agreement by reference as though fully set forth herein.

1.3.11 “**Qualified Households.**” Means, as applicable, either a “Senior 50% Household” or a “Senior 60% Household” as defined below:

(a) “**Senior 50% Household**” means an individual or household who, at the commencement of the occupancy of a Unit, at least one member of which is fifty-five (55) years of age or older and had a maximum allowable household income equal to or less than fifty percent (50%) of the then-current AMI; and

(b) “**Senior 60% Household**” means an individual or household who, at the commencement of the occupancy of a Unit, at least one member of which is fifty-five (55) years of age or older and had a maximum allowable household income equal to or less than sixty percent (60%) of the then-current AMI.

1.3.12 “**Redevelopment Plan**” means the Redevelopment Plan for the Project Area adopted pursuant to the CRL, as it may have been, or may be from time to time hereafter, amended.

ARTICLE 2

TERMS AND CONDITIONS OF AGENCY LOAN.

2.1 **Agency Loan.** The Agency shall disburse the Agency Loan to the Developer pursuant to a disbursement schedule to be agreed upon by the Parties in the DDA. The Agency Loan shall be used solely for allowable Project development and construction costs. The Agency’s obligation to disburse all or any portion of the Agency Loan is expressly conditioned on the satisfaction or waiver by the Agency of the conditions precedent set forth below in Section 2.2 of this Loan Agreement, and any other conditions precedent as shall be set forth in the DDA.

2.2 **Conditions Precedent to Disbursement of Agency Loan.** As a condition precedent to the Agency’s obligation to disburse all or any portion of the Agency Loan, the Agency and Developer shall have negotiated and entered into a DDA containing all of the following terms and conditions, except as otherwise agreed upon by the Parties, in addition to any other mutually agreeable terms and conditions.

2.2.1 Agency Assistance.

(a) *Total Agency Assistance.* Developer shall design and construct the Project, and all elements thereof, with a subsidy from the Agency. The Parties acknowledge that pursuant to the Proposal the Developer has estimated the needed subsidy at \$4,643,730 to \$4,498,646 depending on the design of the Project. The Parties shall negotiate the final subsidy amount to be memorialized in the DDA. Upon execution of the DDA, the Developer shall be solely responsible for ensuring completion of the Project without any financial assistance from the Agency in excess of the total amount specified in this paragraph and the DDA. Developer acknowledges that any unanticipated costs or cost overruns shall be borne sole by the Developer and shall not be a basis for an increase in Agency assistance.

(b) *Agency Funding.* The Agency Loan shall be funded by any legally available funding source. Notwithstanding the foregoing, no less than three million (\$3,000,000) of the Agency’s Low and Moderate Income Housing Set Aside Fund monies (“Set Aside Loan”) shall be encumbered for the purpose of developing the Project as of the Effective

Date of this Loan Agreement. The Set Aside Loan is being encumbered as of the Effective Date to ensure compliance with Health and Safety Code Section 33334.12 and equal to the approximate amount of the Agency's excess surplus. It is anticipated that the Project will require additional funding to be feasible and the Agency may provide, in its sole and absolute discretion, additional funding, up to the total amount set forth above in paragraph (a) if determined by the Agency to be in the best interest of the community and necessary to make the Project feasible.

(c) *Terms of Agency Loan.* The Agency Loan shall be a residual receipts loan with a term of fifty-five (55) years, to bear interest at a rate agreed upon by the Parties, with the principal amount of the Agency Loan to be due at the end of the term. The Agency Loan shall be evidenced by a promissory note secured by a deed of trust to be recorded against the Property at the Close of Escrow. Developer shall make interest payments from residual receipts generated by the Project, as shall be further detailed in the DDA and in the foregoing referenced promissory note and/or deed of trust.

(d) Unit Breakdown. Unless otherwise agreed to by the Parties in the DDA, the Project shall include approximately forty (40) one-bedroom units, nine (9) two-bedroom units, and one (1) two-bedroom manager's unit. The number of units designated for use by 50% Senior Households 60% Senior Households shall be:

20 (1) bedroom	50% AMI
20 (1) bedroom	60% AMI
5 (2) bedroom	50% AMI
4 (2) bedroom	60% AMI

2.2.2 Project Elements. Except as otherwise agreed upon by the Parties, the Project shall contain all of the architectural and design features set forth in the Proposal.

(a) *LEED Gold.* The Project shall achieve a Leadership in Energy and Environmental Design (LEED) Gold certification from the U.S. Green Building Council.

(b) *On and Off-Site Improvements.* The Project shall include design and construction by the Developer of all on and off-site improvements.

(c) *Enlarged Community Room.* The Proposal included a community room of approximately 1800 square feet. Developer, at the public hearing held on June 2, 2011, agreed to increase the size of the community room to 3000 square feet at no additional cost to the Agency.

(d) Garages. Developer shall add 50 garages to the Project.

2.2.3 Fifty-five (55) Year Affordability Covenants. At the Close of Escrow on the Property, Developer shall cause the escrow agent to record a regulatory agreement containing restrictive covenants against the Property, the terms of which shall be superior to any other encumbrance on the Property, to run with the land for fifty-five (55) years commencing as of the date of issuance of a certificate of completion for the Project. The covenants shall restrict the Project to occupancy by Qualified Households at an Affordable Rent, with the unit breakdowns as set forth in Section 2.2.2 above, and one (1) unit for a manager's unit. The regulatory agreement shall include maintenance standards for the Project and other terms and conditions to ensure the maintenance and operation of the Project in accordance with standards acceptable to the Agency, and in conformance with the Agency's obligations under the CRL.

(a) *Notice of Affordability Covenant.* In addition to the regulatory agreement described above, the Developer shall also cause the escrow agent to record, at the Close of Escrow, a "Notice of Affordability Covenant" in conformance with the requirements of the CRL.

2.2.4 Total Project Cost. The Developer's Proposal indicates a total Project cost of approximately \$9,367,998. The actual Project cost shall be determined prior to execution of the DDA. The DDA shall set forth the Project budget, which shall be in substantial conformance with the Project budget and pro-forma submitted by Developer in the Proposal, and as approved by the Agency. Developer shall complete the Project in substantial conformance with the Project budget as set forth in the DDA. The DDA shall include additional terms regarding Developer's compliance with the Project budget.

2.2.5 Developer Financing.

(a) *Tax Credit Allocation Application.* Developer shall, at the earliest date practical following the effective date of the DDA, apply for an allocation from the Tax Credit Allocation Committee ("TCAC") of four percent (4%) federal low income housing tax credits in an amount anticipated to be approximately but not less than \$3,224,007 to finance a portion of the Project costs. The Parties agree that the estimated pricing of the tax credits shall be \$0.86. To the extent additional revenues are generated, those funds shall be applied to the Project and the Agency financial assistance shall be decreased in an equal amount to the additional funds generated. In the alternative, the Agency may, in its sole discretion, approve a modification to the Project to provide for additional amenities equal in value to the additional tax credit revenues. The DDA shall provide that if the Developer fails to obtain a tax credit allocation in the foregoing amount, or such other amount as the Parties shall agree is sufficient to cover the costs of completing the Project, the Agency shall have the option to allow the Developer to submit a subsequent application to TCAC in the following submission round, to terminate the DDA, or to identify alternative funding sources for the Project that are reasonably acceptable to the Agency.

(b) *Construction Loan.* Developer shall, at the earliest date practical following the effective date of the DDA, obtain a binding commitment from a construction lender acceptable to the Agency for a construction loan in an amount anticipated to be approximately but not less than \$4,330,266. The construction loan shall bear interest at the then current market rate for similar loans available to qualified developers with excellent credit rating,

shall have a term of twenty-four (24) months, and shall be subject to commercially reasonable terms acceptable to the Agency.

(c) *Permanent Loan.* Developer shall, at the earliest date practical following the effective date of the DDA, evidence its ability to obtain a permanent loan for the Project in an amount anticipated to be approximately but not less than \$1,414,495. The permanent loan shall bear interest at the then current market rate for similar loans available to qualified developers with excellent credit rating. The permanent loan shall have a term of seventeen (17) years, with amortization over thirty (30) years. The permanent loan shall be subject to commercially reasonable terms acceptable to the Agency.

(d) *Financing Plan.* The DDA shall include, as an exhibit, Developer's detailed financing plan for the Project, in form and substance acceptable to the Agency.

2.2.6 Property Transfer.

(a) General Terms Related to Transfer. The DDA shall set forth the terms and conditions governing the transfer of the Property from the Agency to Developer pursuant to a grant deed in the form as shall be provided in the DDA. Such terms shall include the Agency's and Developer's conditions precedent to the Close of Escrow, and other standard terms and conditions related to the Property transfer, including, but not limited to, Developer's title review and due diligence review of the Property.

(b) Grant Deed with Power of Termination. The grant deed pursuant to which the Agency shall transfer the Property to Developer shall include a power of termination. Said deed shall allow the Agency to terminate Developer's interest in the Property, and to revest the Property, and any improvements thereon, in the Agency, at no cost to the Agency, upon a material default of the Developer under the DDA prior to recordation of a certificate of completion for the Project.

2.2.7 Developer Performance Requirements; Completion Security.

(a) *Development Schedule.* The DDA shall set forth the performance schedule for completion of the Project, which schedule shall be in substantial conformance with the development schedule set forth in the Proposal, with start and finish dates adjusted, as applicable, to commence with the effective date of the DDA.

(b) *Completion Guarantee.* Developer shall covenant to complete the Project, and shall provide a completion guarantee to ensure full completion of the Project pursuant to the terms of the DDA. The completion guarantee shall be on a form provided or approved by the Agency.

(c) *Notice of Agreement.* A "Notice of Agreement" setting forth the basic terms and conditions of the DDA, and in a form provided or approved by the Agency, shall be recorded against the Property at the Close of Escrow.

2.2.8 Insurance Requirements. The DDA shall set forth insurance requirements ensuring that Developer obtain insurance coverage sufficient to protect the Agency, in the Agency's sole discretion. Developer and all agents and consultants of Developer working on the Project shall be required to provide, as applicable, the following insurance policies, with coverage amounts as shall be set forth in the DDA: commercial general liability insurance, automobile liability insurance, worker's compensation, professional errors and omissions insurance, contractor's insurance and builder's risk insurance. The Agency and the Town shall be added as additional insureds under the foregoing policies, as applicable, and shall be provided with additional insured endorsements prior to commencement by Developer of any work on the Project.

2.2.9 Developer Indemnification of Agency and Town. The DDA shall generally require Developer and any agents and consultants of Developer on the Project ("Developer Indemnitors") to indemnify, defend and hold harmless the Agency and the Town for any breach of the DDA terms, and all acts, omissions, fault or negligence of Developer Indemnitors related to the Project or the DDA. The indemnification requirements shall be further set forth in the DDA.

2.3 Timing for Negotiation of DDA; Termination of Agreement. The Parties shall timely negotiate a mutually acceptable DDA, and shall bring forth the proposed DDA, and all related documents and reports, for consideration by the Town Council and the Agency Board. The Parties anticipate bringing the DDA and related documents forward for consideration at a duly noticed public hearing no later than August 23, 2011. If the Parties are unable to negotiate a DDA for consideration by the Town Council and the Agency Board within sixty (60) days following the foregoing specified date, and/or if the Town Council and the Agency Board fail to approve the DDA, then this Loan Agreement, and all obligations contained herein, shall automatically terminate with no liability to either Party.

ARTICLE 3

MISCELLANEOUS PROVISIONS

3.1 **Counterpart Originals; Integration.** This Loan Agreement may be executed in triplicate originals, each of which is deemed to be an original. This Loan Agreement represents the entire understanding of the parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

3.2 **No Waiver.** Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.3 **Binding Commitment of the Agency.** This Loan Agreement represents a binding commitment of the Agency to encumber Set-Aside Funds in the amount of the Agency Loan, and such funds shall be distributed to the Developer for the Project upon satisfaction or waiver of all conditions precedent to this Loan Agreement, and any conditions precedent to be set forth in the DDA.

3.4 **No Third Party Beneficiaries.** This Loan Agreement and its provisions are for the sole and exclusive benefit of the Agency and the Developer. No other parties or entities are intended to be, or shall be considered, a beneficiary of the performance of any of the parties' obligations under this Loan Agreement.

3.5 **Jurisdiction and Venue.** Any action or proceeding concerning this Loan Agreement shall be filed and prosecuted in the appropriate state court in the County of San Bernardino, California. This Agreement shall be governed by the laws of the State of California.

3.6 **Severability.** If any term of this Loan Agreement is held invalid the remainder of this Loan Agreement shall remain in effect.

3.7 **Incorporation of Recitals.** The Recitals set forth above are true and correct and are incorporated into this Loan Agreement as though fully set forth herein.

3.8 **Entire Agreement.** This Loan Agreement sets forth the entire understanding between the parties. Changes or amendments shall be made in writing and signed by the parties.

[Signatures on following page]

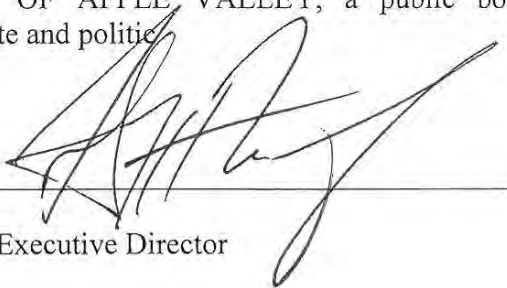
**SIGNATURE PAGE TO
LOAN AGREEMENT**

(Apple Valley Senior Apartments – Dale Evans Parkway and Thunderbird Road)

AGENCY:

THE REDEVELOPMENT AGENCY OF THE
TOWN OF APPLE VALLEY, a public body,
corporate and politic

By:



Executive Director

ATTEST:



Agency Secretary

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP



Agency Counsel

[Signatures continued on following page]

**SIGNATURE PAGE TO
LOAN AGREEMENT**

(Apple Valley Senior Apartments – Dale Evans Parkway and Thunderbird Road)

DEVELOPER:

AMCAL MULTI-HOUSING INC.
a California corporation

By:



Its:

C.E.O.

RDA RESOLUTION No. 2011-01

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY PROVIDING FOR PAYMENT OF ITS SUPPLEMENTAL EDUCATIONAL REVENUE AUGMENTATION FUND (SERAF) OBLIGATION FOR FISCAL YEAR 2010-2011 WITH FUNDS FROM THE REDEVELOPMENT AGENCY'S SET-ASIDE FUNDS.

THE MEMBERS OF THE TOWN OF APPLE VALLEY REDEVELOPMENT AGENCY HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the Town of Apple Valley Redevelopment Agency is a public entity established under the laws of the State of California; and

WHEREAS, the Agency hereby finds, determines, and declares as follows:

(a) Chapter 21 of the Statutes of 2009 (AB X4 26) and Chapter 652 of the Statutes of 2009 (SB 68) enacted Health and Safety Code Section 33690 requiring redevelopment agencies in the State to pay certain amounts to the County Auditor for deposit into the County's Supplemental Educational Revenue Augmentation Fund ("SERAF"). (All further references to "sections" shall be to sections of the Health and Safety Code.)

(b) Section 33690(c)(1) authorizes redevelopment agencies to borrow from either the amount required to be allocated to the agency's low-and moderate income housing fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, or any monies in that fund or both, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the low-and moderate income housing fund or the amount of moneys in the fund, or both.

1) In order to borrow from the low-and moderate income housing fund for payment of SERAF, an agency shall make a finding that there are insufficient other moneys to meet the SERAF payment requirements.

2) Any funds borrowed from the low-and moderate income housing funds for payment of SERAF shall be repaid in full on or before June 30, 2016.

WHEREAS, Pursuant the provisions of Section 33690, the Agency specifically finds and determines that:

(a) There are no existing executed contracts to which the Agency is a party that would be impaired if the agency reduced the amount allocated to the Low-and Moderate Income Housing Funds or the amount of moneys in the fund, or both.

(b) There are insufficient other moneys to meet the SERAF payment requirements of Section 33690(a).

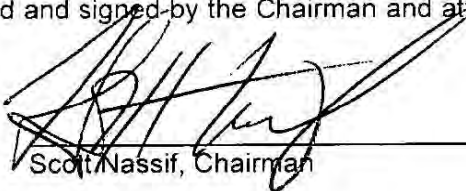
Town Council Agenda: 4/26/11

WHEREAS, the Agency hereby approves the borrowing of seven hundred seventy-seven thousand, two hundred and seventy-three dollars (\$777,273) consisting of \$401,767 from the Apple Valley VVEDA Project Area No. 1 and \$375,506 from the Apple Valley Project Area No. 2 Low-and Moderate Income Housing Funds for the purposes of paying the Agency's SERAF obligation pursuant to Section 33690(a). The funds borrowed from the Low-And Moderate Income Housing Funds for payment of SERAF shall be repaid in full to the Low-And Moderate Income Housing Funds on or before June 30, 2016.

NOW, THEREFORE, BE IT RESOLVED that the Redevelopment Agency of the Town of Apple Valley hereby appropriates said funds for the purposes of paying the SERAF obligation and authorizes the Executive Director, or designee, to make the required SERAF payment to the Auditor as required by law.

The Town Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of the Board; and shall make a minute of passage and adoption thereof in the records of the proceedings of the Redevelopment Agency Board, in the minutes of the meeting at which this Resolution is passed and adopted.

Adopted by the Redevelopment Agency Board and signed by the Chairman and attested by the Town Clerk this 26th day of April, 2011.



Scott Nassif, Chairman

ATTEST



Ms. La Vonda M. Pearson, Town Clerk

Town Council Agenda: 4/26/11

Town of Apple Valley
RDA Resolution No. 2011-01

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, CMC, BOARD SECRETARY of the Town of Apple Valley Redevelopment Agency, Town of Apple Valley, California, do hereby certify that Resolution No. 2011-01 as duly and regularly adopted by the Redevelopment Agency of the Town of Apple Valley, California, at a meeting thereof held on the 26th day of April, 2011 by the following vote:

AYES: Board Members Coleman, Emick, Roelle, Vice-Chairman Stanton and Chairman Nassif.
NOES: None
ABSTAIN: None
ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 27th day of April, 2011.

LA VONDA M-PEARSON, CMC, BOARD
SECRETARY
TOWN OF APPLE VALLEY


By: Patty J. Hevle, Deputy

SEAL

CALIFORNIA HOUSING FINANCE AGENCY

LOAN AGREEMENT

Housing Enabled by Local Partnerships

CalHFA Loan No. HELP- 020703-02

This Loan Agreement (the "Agreement") is made and entered into on November 5, 2003, by and between the Redevelopment Agency of the Town of Apple Valley, a public body, corporate and politic (the "Borrower"), and the California Housing Finance Agency, a public instrumentality and political subdivision of the State of California (the "Agency").

RECITALS

A. The Agency has authorized the making of a loan (the "HELP Loan") to the Borrower for the purpose of assisting the Borrower in operating a local housing program (the "Project") as more particularly described in the Borrower's loan application to the Agency and as further described in **Exhibits A and B** attached hereto and incorporated herein by this reference; and

B. The Agency and the Borrower intend, by this Agreement, to provide for the funding and repayment of the HELP Loan.

NOW, THEREFORE, in consideration of the mutual promises expressed herein, the parties hereto agree as follows:

1. HELP Loan. The Agency shall lend and the Borrower shall borrow and repay the HELP Loan in accordance with the provisions of this Agreement.

2. Disbursement of Loan. The Agency shall disburse the HELP Loan to the Borrower for the purposes described in **Exhibit A** and in accordance with the provisions of **Exhibit B**.

3. Repayment of Loan.

(a) For value received, the Borrower agrees to pay to the order of the Agency the principal amount of the HELP Loan, as described in **Exhibit B**, or so much thereof as may be disbursed by the Agency to the Borrower, or for its account, as provided herein. The Borrower also promises to pay to the order of the Agency interest and other charges in the amounts and at or before the times herein provided. Notwithstanding any provision to the contrary in the Borrower's application or other Project information submittals, this Agreement shall be a general obligation of the Borrower and the source of funds utilized for repayment shall not be limited to any particular asset(s) of the Borrower.

(b) The disbursements made pursuant to this Agreement shall accrue simple interest at the percentage rate per annum as specified in **Exhibit B** from the date that they are disbursed to the Borrower or for its account, until repaid.

(c) Any balance owed pursuant to this Agreement, whether principal, interest or otherwise, if not sooner due and payable as provided herein, shall be due and payable at the end of the HELP Loan term as specified in **Exhibit B**.

4. Interest Rate Adjustment. In addition to any other default remedies that the Agency may have as provided herein, the Agency may, upon thirty (30) days written notice to the Borrower, increase the rate of interest charged on any outstanding principal amount disbursed to the Borrower and not used in accordance with the terms of this Agreement, or not paid back when due, to a rate not to exceed ten percent (10%) per annum. Such rate adjustment shall occur commencing on the first (1st) day of the first (1st) month following expiration of such thirty (30) day notice. Such increased interest rate shall only be charged so long as the Borrower remains in default.

5. Place and Manner of Payment. All amounts due and payable under this Agreement are payable at the principal office of the Agency as set forth herein, or at such other place or places as the Agency may designate to the Borrower in writing from time to time, in any coin or currency of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts and which on the respective dates on which such payments are due shall be immediately available funds.

6. Application of Payments. All payments received by the Agency from the Borrower on account of this Agreement shall be applied first to charges due under this Agreement other than interest and principal (i.e., attorneys fees and enforcement costs, if applicable), then to accrued interest and then to a reduction of the outstanding principal amount.

7. Timely Progress.

(a) The Borrower shall diligently commence and proceed with the implementation of the Project in a timely manner, and shall report such progress to the Agency, as specified in **Exhibit B**.

(b) In the event that the Borrower experiences any delay in the timely commencement of or progress in the implementation of the Project, the Borrower shall immediately notify the Agency of same. Failure of the Borrower to timely commence or proceed with the implementation of the Project shall (i) release the Agency from the obligation to make any further disbursements under this Agreement, and (ii) entitle the Agency to recapture from the Borrower all disbursed funds which have not been timely used, provided that the Agency shall have given the Borrower at least fifteen (15) days written notice of its intent to take such actions(s) and shall have given the Borrower a reasonable opportunity to correct such failure.

8. Default. The Borrower agrees that the unpaid balance of the then principal amount of this Agreement, together with all accrued interest thereon and charges owing, shall, at the option of the Agency, become immediately due and payable, upon the failure of the Borrower to make any payment hereunder as and when due, upon the Agency's discovery of any misrepresentation of material facts as stated in the Borrower's application or other Project information submittals, upon the use of HELP Loan funds for purposes not approved by the Agency, upon the Project's lack of compliance with the occupancy and rent requirements as stated in **Exhibit B**, upon the failure of the Borrower to perform or observe any other term or provision of this Agreement or upon the occurrence of any other event (whether termed default, event of default or otherwise) which under the terms of this Agreement shall entitle the Agency to exercise rights or remedies hereunder, provided that the Agency shall give written notice to the Borrower of any of the foregoing events and the Borrowers shall have thirty (30) days to cure before any

acceleration of the unpaid balance. In the event that the Borrower uses disbursed HELP Loan funds for a purpose which is not authorized or approved under this Agreement, or otherwise by the Agency in writing, the Agency may demand and the Borrower shall immediately repay such funds to the Agency.

9. Right to Inspect. The Borrower shall allow the Agency, on written request, to have reasonable access to and the right to inspect all records that pertain to the Project and this HELP Loan. The Borrower shall also permit the Agency to enter, at reasonable times, upon the Project to inspect the work progress. All records, accounts, documentation and other material relevant to a fiscal audit or examination, as specified by the Agency, shall be retained and made available to the Agency for a period of not less than three (3) years from the date of the termination of this Agreement.

10. Periodic Reports.

(a) Within fifteen (15) business days after the end of each reporting period as described in **Exhibit B**, the Borrower shall submit to the Agency a status report describing the Project's progress and detailing compliance with the requirements of the Agency. The format of the report shall be as provided or approved by the Agency.

(b) The Borrower agrees to establish and maintain fiscal control and accounting procedures which assure that funds loaned to it pursuant to this Agreement are properly disbursed, adequately controlled and reasonably accounted for. Adequate documentation of each transaction shall be maintained to permit the determination, through an audit if requested by the Agency, of the accuracy of the records and the allowability of expenditures payable with HELP Loan funds. If the allowability of any expenditure cannot be determined because records or documentation are inadequate, the questionable expenditure may be disallowed. Upon demand by the Agency, the Borrower shall immediately repay the Agency for any disallowed expenditures.

11. Fair Employment Practices. The Borrower shall provide, and require that any contractor or subcontractor engaged in work on the Project shall provide, equal opportunity for employment without discrimination as to race, sex, marital status, color, religion, sexual orientation, source of income, national origin or ancestry.

12. Use of Funds. The Borrower agrees that it shall hold, in trust, any funds received by it pursuant to this Agreement and apply them only for the purpose for which such funds were approved by the Agency. Approved use of funds may include the Borrower's reasonable administrative costs in administering the Project and HELP Loan to the extent, but only to the extent, provided for in **Exhibit B**.

13. Time. Time shall be of the essence in this Agreement.

14. Term. The term of this Agreement shall commence on the date of this Agreement, and shall continue until the full repayment of the HELP Loan.

15. Communications. All notices, and other communications made pursuant to this Agreement shall be effective upon personal delivery or, if mailed, on the date which is three (3) business days after deposit with the United States Postal Service, postage prepaid, and addressed to the applicable party as follows:

To the Borrower: At the Borrower's address as described on **Exhibit B**.
To the Agency: California Housing Finance Agency
1121 L Street, 7th Floor
Sacramento, California 95814
Attention: HELP Program

16. Successors and Assigns. The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no assignment of the Borrower's rights hereunder shall be made, voluntarily or by operation of law, without the prior written consent of the Agency. The Borrower is the only entity which the Agency intends to benefit by this Agreement.

17. Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

18. Integration. This Agreement, together with the exhibits hereto, incorporating references herein, and enclosures herewith, sets forth all of the promises, agreements and understandings to date among the parties hereto with respect to the Project and HELP Loan, and there are no other promises, agreements or understandings, oral or written, express or implied.

19. Compliance with Laws. The Borrower shall comply with all applicable federal, state and local laws. Borrower hereby warrants such legal compliance and agrees to indemnify the Agency against any damages, costs or attorneys fees incurred by the Agency as a result of any such noncompliance.

20. Amendment. This Agreement shall not be amended except by a written agreement signed by the parties hereto.

21. Remedies, Waiver.

(a) If the Borrower fails to comply with the terms of this Agreement, the Agency may, at its election, terminate its obligation to make any further loan disbursements hereunder. No remedy herein contained or conferred upon the Agency is intended to be exclusive of any other remedy or remedies afforded by law, by equity or by the terms hereof to the Agency but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No exercise of any right or remedy by the Agency hereunder shall constitute a waiver of any other right or remedy herein contained or provided by law, and no delay by the Agency in exercising any such right or remedy hereunder shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any breach hereunder.

00000000000000000000000000000000(b) No waiver by the Agency of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

23. Attorneys Fees, Costs. In any action to enforce or relating to this Agreement, the prevailing party shall be entitled to recover from the other party, its costs and expenses including attorney fees. The term "costs and expenses" as used herein shall include all costs and expenses actually and

reasonably incurred. Such costs and expenses shall be recoverable whether the services were rendered by a salaried employee of the party or by an independent contractor.

24. Representations and Warranties. The persons who are executing this Agreement on behalf of the Borrower and the Borrower represent and warrant to the Agency as follows:

(a) The Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted. The copies of the documents evidencing the organization of the Borrower delivered to the Agency are true and correct copies of the originals, as amended to the date of this Agreement.

(b) The Borrower has the full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

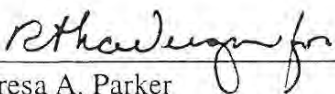
(c) This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been and will continue to be executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of the Borrower and all actions required under the Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered or to be executed and delivered, pursuant to this Agreement, have been and will continue to be duly taken.

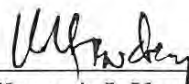
(d) This Agreement and all other documents or instruments which have been executed and delivered pursuant to this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

**CALIFORNIA HOUSING
FINANCE AGENCY**

**REDEVELOPMENT AGENCY OF
THE TOWN OF APPLE VALLEY**

By: 
Theresa A. Parker
Executive Director

By: 
Kenneth J. Henderson
Executive Director

EXHIBITS:

- Exhibit A:** Project Summary
- Exhibit B:** Project Specific Terms and Conditions

Project Summary

Redevelopment Agency of the Town of Apple Valley

Pursuant to the terms of the application package submitted by the Borrower to the Agency and dated April 3, 2003, the Borrower shall use the HELP Loan funds as a source of funds for a downpayment and closing costs assistance program for first-time homebuyers (the "Project").

Project Specific Terms and Conditions

Borrower: Redevelopment Agency of the Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

Attn: Executive Director

CalHFA Loan No.: HELP-020703-02

HELP Loan Terms:

Principal Amount:	\$250,000
Interest Rate:	3% simple per annum Interest to be charged only on funds disbursed
Term:	10 years from date of this Agreement
Payment:	Deferred for term of HELP Loan

Loan is subject to the following conditions:

1. Authorizing Resolution. Prior to the disbursement of any HELP Loan funds, the Borrower shall issue a resolution that authorizes the signer, on behalf of the Borrower, to execute this Agreement, incur the HELP Loan indebtedness, commit specific resources to implement the Project, and take any other actions necessary to facilitate the Project.
2. Project Purpose. HELP Loan funds shall be used exclusively to provide a source of funds for a down payment and closing costs assistance program for first-time homebuyers. Individual loans from the HELP Loan shall have a 0% interest rate.

Affordability covenants shall be recorded on the loan documents to the Borrower's borrowers (the first-time homebuyers) which shall require that owners be limited to households whose annual income is at or below 80% of area median income as defined in California Health and Safety Code Section 50079.5 who continuously occupy for the earlier of their period of ownership or a minimum of 10 years.

The Borrower shall ensure that each new homebuyer under the Project receives reasonable support services, such as, but not limited to homebuyer education and referral services to a variety of community resources as described in the High Desert Resource Directory. These community resources include children's services, health and medical services, employment counseling, and emergency assistance.

3. Early Repayment. HELP Loan funds which are repaid to the Borrower (by the Borrower's borrower), and are not re-lent within six (6) months of said repayment, or which are not utilized within 30 days of their disbursement by the Agency shall be returned to the Agency immediately. Subject to the limitations of paragraphs 4. and 5. below, the funds so returned shall be available for re-distribution to Borrower, upon written application, for Borrower's use in accordance with this Agreement. Interest shall accrue on the sums being returned for the period said funds were held by Borrower, but interest shall cease to accrue on said sums until the funds are re-distributed to Borrower. Notwithstanding any other provision of this Agreement, any accrued interest shall not be due until the end of the HELP Loan period.
4. Timely Use of Funds (1 Year Requirement). If the Borrower does not draw any funds within 1 year from the date of this Agreement, then the Agency shall have the option, in its sole discretion, to cancel the Borrower's right to receive future draws from the undisbursed HELP Loan funds.
5. Timely Use of Funds (2 Year Requirement). The Borrower shall draw and utilize its entire allocation of HELP Loan funds within 2 years from the date of this Agreement. Any disbursed HELP Loan funds which are not utilized within this period, at the Agency's option, shall be immediately repaid and the Borrower's right to receive future draws from the undisbursed HELP Loan funds shall terminate.
6. Draw Procedure. The Borrower shall request draws from the undisbursed HELP Loan proceeds by submitting a certification to the Agency which represents that the Borrower intends to use the funds within 30 days of the draw. The Borrower shall provide the following specific information in its certification: 1) the HELP Loan Agreement number, 2) the property location where the funds will be used; 3) the specific dollar amount of the draw requested; 4) the specific proposed use of the draw; 5) the date on which the Agency is requested to disburse the draw (allow at least 10 days); and 6) the name and title of the individual making the draw request. If the requestor is someone other than the individual identified in the resolution required by paragraph 1. of this Exhibit B, the certification must be accompanied by a delegation letter or other evidence of authority to execute the certification.

7. Semi-annual Report. The Borrower shall provide a semi-annual report of the status of the Project, in accordance with the requirements of the Agency, commencing on the date which is 6 months from the date of this Agreement and continuing thereafter at 6-month intervals.
8. Interest Earnings on Loan Repayments. Interest earnings on the Project loan repayments received by the Borrower from its borrowers, or from the temporary deposit of their repayments pending their re-lending or pre-payoff accumulation, may be used to underwrite costs directly associated with the Project, which shall include but not be limited to administrative expenses, staffing, fees, reduction of loan origination fees charged to home buyers, and/or to reduce the effective interest rate of the loans of the Project.