

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY APPROVING AND ADOPTING AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO ABX1 26.

Summary Statement:

The Town Council adopted Ordinances 421 and 422 at its August 2nd Special Meeting to comply with the State's recently enacted Redevelopment Restructuring Acts (ABx1 26 and ABx1 27). The ordinances permitted the Town and the Town's Redevelopment Agency (AVRDA) to "opt-in" to the newly created Voluntary Alternate Redevelopment Program (Alternate Program) to carry out the activities and programs of the Town's Redevelopment Project Areas and to pay a "community remittance" required by the Alternate Program. The AVRDA estimated payments are \$1,412,930 for Project Area No. 1 (PA 1; VVEDA) and \$1,631,773 for Project Area No. 2 (PA 2); totaling \$3,044,703.

Additionally, ABx1 26 requires redevelopment agencies to adopt, by August 28, 2011, an Enforceable Obligation Payment Schedule ("EOPS"), which will serve as the basis for the payment of the Agency's outstanding financial obligations if the Agency is ultimately dissolved.

On July 18, 2011, the League of California Cities and the California Redevelopment Association filed suit in the Supreme Court of the State of California challenging the constitutionality of these bills. On August 11, 2011, the Supreme Court agreed to take the case and issued an immediate stay of enforcement of ABx1 26 in part and a stay of ABx1 27 in its entirety. As a result of the stay of enforcement of ABx1 27, the Town's Continuation Ordinance, adopted on August 2, 2011, is not effective for the duration of the stay.

(Continued)

Recommendation:

That the Town of Apple Valley Redevelopment Agency Adopt Resolution No. 2011-04 Approving and Adopting an Enforceable Obligation Payment Schedule in compliance with ABx1 26.

Proposed by: Economic and Community Development Item Number _____

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

Council Meeting Date: 8/25/11

BACKGROUND

The AVRDA was created by the Town Council for the purposes of implementing redevelopment activities in the Town. The Council adopted the Redevelopment Plan for the Town's Project Areas in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Project Areas were found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment Plan authorizes the AVRDA to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted, and the Governor signed, AB1x 26 and AB1x 27, which took effect on June 29, 2011.

ABx1 26 immediately suspended all new redevelopment activities and incurrance of indebtedness, and dissolves redevelopment agencies effective October 1, 2011 (the "Dissolution Act"). It does this by terminating virtually all otherwise legal functions of the redevelopment agency and mandating a liquidation of any assets for the benefit of local taxing agencies. Some debts would be allowed to be repaid, but any such remittances would be managed by a successor agency, that would function primarily as a debt repayment administrator. The successor agency could not continue or initiate any new redevelopment projects or programs. The activities of the successor agency would be overseen by an oversight board, comprised primarily of representatives of other taxing agencies, until such time as the remaining debts of the former redevelopment agency were paid off, all agency assets liquidated and all property taxes were redirected to local taxing agencies.

ABx1 27 allows a city or county that has created a redevelopment agency to avoid the consequences of the Dissolution Act by adopting an ordinance ("Continuation Ordinance") stating it will comply with the Alternate Redevelopment Program and pay specified "community remittances."

DISCUSSION

On July 18, 2011, the League of California Cities and the California Redevelopment Association filed suit in the Supreme Court of the State of California challenging the constitutionality of these bills. On August 11, 2011, the Supreme Court agreed to take the case and issued an immediate stay of enforcement of ABx1 26 in part and a stay of ABx1 27 in its entirety. As a result of the stay of enforcement of ABx1 27, the Town's Continuation Ordinances, adopted on August 2, 2011, are not effective for the duration of the stay.

The Supreme Court allowed Part 1.8 of Division 24 of the Health and Safety Code (Health and Safety Code Sections 34161-34167), enacted by ABx1 26, to remain in effect, which precludes existing redevelopment agencies from incurring new indebtedness, transferring assets, acquiring real property, entering into new contracts or modifying existing contracts, or adopting or amending redevelopment plans. The Supreme Court stayed enforcement of ABx1 26 in all other respects. Although this stay includes the provisions of ABx1 26 requiring

adoption of the EOPS, Health and Safety Code Section 34167 assumes the adoption of, and relies upon, an effective EOPS.

The EOPS must be adopted by August 28, 2011 and posted on the Town's website

The EOPS must list all of the "enforceable obligations" of the AVRDA, and is subject to approval by the State Department of Finance. "Enforceable obligations" include: bonds; loans legally required to be repaid pursuant to a payment schedule with mandatory repayment terms; payments required by the federal government, preexisting obligations to the state or obligations imposed by state law; judgments, settlements or binding arbitration decisions that bind the agency; legally binding and enforceable agreements or contracts; and contracts or agreements necessary for the continued administration or operation of the agency, including agreements to purchase or rent office space, equipment and supplies. While the stay is in effect, the AVRDA cannot make any payment unless it is listed in an adopted EOPS.

The Supreme Court has announced its intent to decide the case by January 15, 2012. Based upon the foregoing, staff recommends adoption of the attached resolution which approves and adopts an Enforceable Obligation Payments Schedule.

ATTACHMENTS

Resolution No. 2011-04

RDA RESOLUTION NO. 2011-04

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY APPROVING AND ADOPTING AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO ABx1 26

WHEREAS, pursuant to the Community Redevelopment Law (Health and Safety Code Sections 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(s) for the Victor Valley Economic Development Authority (PA#1:VVEDA) and Apple Valley Redevelopment (AVRDA PA#2) Project Areas covering certain properties within the Town ("Project Areas"); and

WHEREAS, as part of the 2011-2012 State budget bill, the California State Legislature recently enacted, and the Governor signed, companion bills ABx1 26 and ABx1 27, which eliminate every redevelopment agency unless the community that created it adopts an ordinance ("Continuation Ordinance") agreeing to participate in an Voluntary Alternative Redevelopment Program ("Alternate Redevelopment Program") which requires the payment of an annual "community remittance" payment; and

WHEREAS, Health and Safety Code Section 34169, enacted by ABx1 26, requires redevelopment agencies to adopt, by August 28, 2011, an Enforceable Obligation Payment Schedule ("EOPS") which will serve as the basis for the payment of the Agency's outstanding financial obligations if the Agency is dissolved; and

WHEREAS, on July 18, 2011, the League of California Cities and the California Redevelopment Association filed suit in the Supreme Court of the State of California challenging the constitutionality of and requesting a stay of enforcement of ABx1 26 and ABx1 27; and

WHEREAS, the Town adopted the Continuation Ordinance on August 2, 2011; and

WHEREAS, on August 11, 2011, the Supreme Court agreed to take the case and issued an order for the immediate stay of the enforcement of ABx1 26 in part and ABx1 27 in its entirety; and

WHEREAS, since the adoption of the Continuation Ordinance, the Agency has been operating under the provisions of ABx1 27; and

WHEREAS, as a result of the stay on ABx1 27, the Town's adopted Continuation Ordinance is not effective for the duration of the stay; and

WHEREAS, although the Court order stayed enforcement of Health and Safety Code Section 34169, the Court did not stay the enforcement of Health and Safety Code Section 34167, also enacted by ABx1 26, which relies upon and makes reference to an adopted EOPS; and

WHEREAS, adoption of the EOPS would allow the Agency to make payments on debts and obligations listed on the EOPS while the stay is in effect.

NOW, THEREFORE, THE 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 incorporated herein by reference.

Section 2. Approval of EOPS. The Agency hereby approves and adopts the Enforceable Obligation Payment Schedule, in substantially the form attached hereto as Exhibit A, as required by Health and Safety Code Section 34167 and in accordance with the requirements of Health and Safety Code Section 34169, added by the recently enacted legislation ABx1 26.

Section 3. Posting; Transmittal to Appropriate Agencies. The Executive Director is hereby authorized and directed to post a copy of the EOPS on the Town's website. The Executive Director is further authorized and directed to transmit, by mail or electronic means, to the San Bernardino County Auditor-Controller, the State Controller and the Department of Finance, notification providing the website location of the posted EOPS and other information as required by ABx1 26.

Section 4. Effective Date. Pursuant to Health and Safety Code Section 34169(i), the Agency's action to adopt the EOPS as set forth herein shall not be effective for three (3) business days following adoption of this Resolution, pending a request for review of the EOPS by the Department of Finance.

PASSED AND ADOPTED at a regular meeting of the Redevelopment Agency of the Town of Apple Valley on the 25 day of August, 2011.

Chairman

ATTEST:

Agency Secretary

EXHIBIT A

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total	
					Aug**	Sept	Oct	Nov	Dec		
1) 2005 Tax Allocation Bonds		Fund capital improvements	7,205,000.00	508,095.00					166,547.50	\$ 166,547.50	
2) 2007 Tax Allocation Bonds		Fund RDA activities	8,420,000.00	550,582.50					195,291.25	\$ 195,291.25	
3) Employee Costs	Employees of Agency	Payroll for employees	518,392.00	518,392.00	6,967.65	43,199.33	43,199.33	43,199.33	43,199.33	\$ 179,764.97	
4) Administration	Town of Apple Valley	Operating Transfer	471,435.00	471,435.00	471,435.00					\$ 471,435.00	
5) Contract for consulting services	McGregor Shott	Marketing professional services	10,120.50	10,120.50						\$ -	
6) Contract for consulting services	BB&K	Legal counsel	24,000.00	24,000.00						\$ -	
7) Administration		Operations & maintenance	292,254.50	292,254.50						\$ -	
8) Contract for consulting services	Keyser Merston	50-Unit Senior Project	19,000.00	19,000.00						\$ -	
9) Loan Agreement	AMCAL	50-Unit Senior Project	2,000,000.00	2,000,000.00						\$ -	
10) Loan to 80% for ERAF	20% Low Income Fund	Loan to pay ERAF	401,767.00							\$ -	
11) HELP Loan	Cal HFA	Loan for Down Payment Assistance	145,000.00							\$ -	
12)										\$ -	
13)										\$ -	
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30)										\$ -	
Totals - This Page					\$ 4,393,879.50	\$ 478,402.65	\$ 43,199.33	\$ 43,199.33	\$ 43,199.33	\$ 405,038.08	\$ 1,013,038.72
Totals - Page 2, PA 2					\$ 6,263,950.07	\$ 478,428.05	\$ 43,350.75	\$ 43,350.75	\$ 43,350.75	\$ 888,700.75	\$ 1,025,745.05
Totals - Page 3					\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - VVEDA Other Obligations					\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - PA2 Other Obligations					\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand total - All Pages					\$ 10,940,421.37	\$ 956,830.70	\$ 86,550.08	\$ 86,550.08	\$ 86,550.08	\$ 1,293,738.83	\$ 2,038,783.77

* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.

** Include only payments to be made after the adoption of the EOPS.

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

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total	
					Aug**	Sept	Oct	Nov	Dec		
1) 2007 Tax Allocation Bonds		Fund (80%) RDA activities	30,280,669.14	2,092,111.30					676,280.00	\$ 676,280.00	
2) 2007 Tax Allocation Bonds		Fund (20%) Housing projects	4,249,330.86	293,588.77					169,070.00	\$ 169,070.00	
3) Employee Costs	Employees of Agency	Payroll for employees	520,209.00	520,209.00	6,982.05	43,350.75	43,350.75	43,350.75		\$ 180,395.05	
4) Loan Agreement/DDA	AMCAL	Senior Project Loan Agreement	2,643,730.00	2,643,730.00						\$ -	
5) Contract for consulting services	McGregor Shott	Marketing professional services	10,120.50	10,120.50						\$ -	
6) Contract for consulting services	BB&K	Legal counsel	24,000.00	24,000.00						\$ -	
7) Administration		O&M	208,754.50	208,754.50						\$ -	
8) Administration	Town of Apple Valley	Operating Transfer	471,436.00	471,436.00	471,436.00					\$ -	
9) Loan to 80% for ERAF	PA2 - 20 Percent Low Income Fund	Loan to Pay ERAF	375,506.00							\$ -	
10) Help Loan	Cal HFA	Loan for Down Payment Assistance	145,000.00							\$ -	
11)										\$ -	
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35)										\$ -	
Totals - This Page			\$ 38,928,756.00	\$ 6,263,950.07	\$ 478,428.05	\$ 43,350.75	\$ 43,350.75	\$ 43,350.75	\$ 43,350.75	\$ 888,700.75	\$ 1,025,745.05

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 If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.
 ** include only payments to be made after the adoption of the EOPS.

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
					Aug**	Sept	Oct	Nov	
1)									\$ -
2)									\$ -
3)									\$ -
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36)									\$ -
Totals - This Page			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

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 If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.
 ** Include only payments to be made after the adoption of the EOPS.

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

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total
						Aug**	Sept	Oct	Nov	Dec	
1)		AV Parks and Rec			15,012.41						\$ -
2)		AV Fire Protection Dist			33,935.32						\$ -
3)		AV Unified School Dist			113,865.84						\$ -
4)		County Sup of Schools			3,713.82						\$ -
5)		Victor Valley College			24,400.95						\$ -
6)		County of San Bern			68,745.26						\$ -
7)		CSA 60-Victorville			3,768.64						\$ -
8)		MD Resource Conserv Dist			18.09						\$ -
9)		Mojave Water Agency			1,938.86						\$ -
10)		Town of AV			17,192.61						\$ -
11)											\$ -
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25)											\$ -
26)											\$ -
27)											\$ -
28)											\$ -
				Totals - Other Obligations	\$ -	\$ 282,591.80	\$ -	\$ -	\$ -	\$ -	\$ -

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 If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.
 ** Include only payments to be made after the adoption of the EOPS.
 *** All payment amounts are estimates