

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

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

**BACKGROUND**

The Redevelopment Agency of the Town of Apple Valley ("Agency") was created by the Town Council for the purpose of implementing redevelopment activities in the Town. The Town Council adopted the Apple Valley Redevelopment Agency Plan for Project Area 2 as well as the Victor Valley Economic Development Authority (VVEDA) Plan for Project Area 1 located within the boundaries of the Town, 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 Plans authorize the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

The Governor recently signed into law AB x1 26 and AB x1 27 as part of the State budget which have the combined effect of abolishing every redevelopment agency unless the community that created the agency elects to participate in the "Alternative Voluntary Redevelopment Program" ("Program") by ordinance. Participation in the Program includes an agreement to pay a "community remittance".

A Petition for Writ of Mandate challenging the constitutionality of ABx1 26 and ABx1 27 was filed on July 18, 2011 in the Supreme Court of the State of California. On August 11, 2011, the Supreme Court agreed to take the case and issued an order for the immediate stay of enforcement of ABx1 26 in part and ABx1 27 in its entirety. On August 17, 2011, the Supreme Court modified its stay to clarify that Health and Safety Code Sections 34161 through 34169.5, enacted by ABx1 26, and Health and Safety Code Section 34194(b) (2), enacted by ABx1 27, are not stayed.

(Continued)

**Recommendation:**

That the Town of Apple Valley Redevelopment Agency Adopt RDA Resolution No. 2011-05, approving and adopting a preliminary draft of the initial Recognized Obligation Payment Schedule in compliance with ABx1 26.

Proposed by: Economic & Community Development Item Number \_\_\_\_\_

Town Manager Approval: \_\_\_\_\_ Budgeted Item  Yes  No  N/A

The Court's decision did not stay the enforcement of Health and Safety Code Section 34169(h), which requires agencies to prepare a preliminary draft of the initial Recognized Obligation Payment Schedule ("ROPS") by September 30, 2011. Depending on the outcome of the litigation, the ROPS may eventually serve as the basis for the payment of the Agency's outstanding financial obligations by the Agency's successor agency.

The ROPS must list all of the "enforceable obligations" of the Agency as defined in the legislation and the minimum amounts and due dates of payments required by each enforceable obligation for six month periods beginning with January 1, 2012 through June 30, 2012, and is subject to approval by an oversight board, the county auditor-controller, the State Controller, and the 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; contracts or agreements necessary for the continued administration or operation of the agency, including agreements to purchase or rent office space, equipment and supplies. "Enforceable obligations" do not include agreements or arrangements between the Agency and the Town, except those entered into on or before December 31, 2010 solely for the purpose of securing or repaying indebtedness obligations. Notwithstanding the previous sentence, loan agreements entered into between the Agency and the Town within two years of the date of creation of the Agency are deemed enforceable obligations. The ROPS is also required to identify one or more of the following sources of payment for each enforceable obligation: The Low and Moderate Income Housing Fund; bond proceeds; reserve balances; administrative cost allowance; the Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment is required from property tax revenues; and other revenue sources including rents, concessions, asset sale proceeds, interest earnings, and other revenues approved by an oversight board.

The initial draft of the ROPS must also include, from October 1, 2011, a schedule showing all the dates and amounts of payments for each enforceable obligation for the remainder of the time during which the redevelopment agency is authorized to obligate property tax increment. Although the Agency is responsible for preparing the preliminary draft of the initial draft of the ROPS, the final version is to be prepared by the Agency's successor agency if the stay on ABx1 26 is lifted and the Agency is dissolved. The successor agency will not be able to make any payment unless they are set forth in the ROPS.

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 initial Recognized Obligation Payments Schedule.

**ATTACHMENTS:**

RDA Resolution No. 2011-05

Council Meeting Date: 09/27/11

**RDA RESOLUTION NO. 2011-05**

**A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY, CALIFORNIA APPROVING AND ADOPTING THE PRELIMINARY DRAFT OF THE INITIAL RECOGNIZED 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") to serve as the redevelopment agency within the Town; and

**WHEREAS**, the Agency has been responsible for implementing the Redevelopment Plan for the Victor Valley Economic Development Authority ("VVEDA") Project Area 1 and the Apple Valley Redevelopment Agency Project Area 2, covering certain properties within the Town; 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 agreeing to participate in an Alternative Voluntary Redevelopment Program which requires the payment of an annual "community remittance" payment; 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**, 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**, on August 17, 2011, the Court modified its stay to clarify that Health and Safety Code Sections 34161 through 34169.5, enacted by ABx1 26, are not subject to the stay; and

**WHEREAS**, Health and Safety Code Section 34169(h), enacted by ABx1 26, requires redevelopment agencies to prepare, by September 30, 2011, a preliminary draft of the initial Recognized Obligation Payment Schedule ("ROPS").

**NOW, THEREFORE, BE IT RESOLVED**, determined and ordered by the Redevelopment Agency of the Town of Apple Valley as follows:

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

**Section 2. Approval and Adoption of ROPS.** The Agency hereby approves and adopts the preliminary draft of the initial ROPS, in substantially the form attached hereto as Exhibit A, as required by Health and Safety Code Section 34 1 69(h).

**Section 3. Future Action.** The Agency hereby authorizes the Agency Executive Director, or his or her designee, to provide the preliminary draft of the initial ROPS to the Agency's successor agency, if the Supreme Court's stay is lifted or modified in a manner that permits a successor agency to be established for the Agency pursuant to Part 1.85 to Division 4 of the Health and Safety Code, enacted by ABx1 26.

**Section 4. Certification.** The Agency's Clerk shall certify to the adoption of this Resolution.

**Section 5. Effective Date.** This Resolution shall become effective upon its adoption.

**APPROVED** and **ADOPTED** at a regular meeting of the Apple Valley Redevelopment Agency, on the 27th day of September 2011.

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Scott Nassif, Chairman

ATTEST:

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La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

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John Brown, Town Attorney

**EXHIBIT "A"**

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

Name of Redevelopment Agency: Victor Valley Economic Development Authority - Apple Valley

Project Area(s): 1

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

Per AB 26 - Section 34167 and 34169 (\*)

	Project Name / Debt Obligation	Payee	Description	Revenue Source	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	10/1/11 to 12/31/11	1/1/12 to 6/30/12
<b>PROJECT AREA 1 (VVEDA)</b>								
1)	2005 Tax Allocation Bonds	US Bank	Fund capital improvements	Redevelopment Property Tax Trust Fund/Reserve Balances	12,266,478	508,095	166,548	341,547
2)	2007 Tax Allocation Bonds	US Bank	Fund RDA activities	Redevelopment Property Tax Trust Fund/Reserve Balances	15,234,158	550,583	195,291	355,292
3)	Administration (through 2026)	Employees of Agency	Payroll for employees	Admin Cost Allowance	7,775,880	518,392	129,598	259,196
4)	Administration (through 2026)	Town of Apple Valley	Operating Transfer	Admin Cost Allowance	7,071,525	471,435		471,435
5)	Administration (through 2026)	Various	Operations & maintenance	Admin Cost Allowance	4,276,950	285,130	71,282	142,564
6)	Professional Services (through 2026)	McGregor Shott	Marketing professional services	Admin Cost Allowance	151,815	10,121	7,590	2,531
7)	Professional Services (through 2026)	BB&K	Legal counsel	Admin Cost Allowance	360,000	24,000	6,000	12,000
8)	Professional Services	Keyser Marston	50-Unit Senior Project	Admin Cost Allowance	19,000	19,000	6,323	12,677
9)	Loan Agreement	AMCAL	50-Unit Senior Project	Low Mod Income Housing Fund	2,000,000	2,000,000	600,000	1,400,000
10)	Loan to 80% for ERAF	20% Low Income Fund	Loan to pay ERAF	Low Mod Income Housing Fund	401,767			
11)	HELP Loan	Cal HFA	Loan for Down Payment Assistance	Low Mod Income Housing Fund	145,000			
<b>TOTALS</b>					<b>\$37,436,095</b>	<b>\$3,878,661</b>	<b>\$1,642,900</b>	<b>\$2,655,695</b>

Name of Redevelopment Agency: Apple Valley Redevelopment Agency  
 Project Area(s): 2

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

	Project Name / Debt Obligation	Payee	Description	Revenue Source	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	10/1/11 to 12/31/11	1/1/12 to 6/30/12
<b>PROJECT AREA 2</b>								
1)	2007 Tax Allocation Bonds	US Bank	Fund (80%) RDA activities	Redevelopment Property Tax Trust Fund/Reserve Balances	54,539,395	2,092,111	1,046,056	1,046,056
2)	2007 Tax Allocation Bonds	US Bank	Fund (20%) Housing projects	Low and Moderate Income Housing Fund/Reserve Balances	7,437,190	293,589	146,795	146,795
3)	Administration (through 2026)	Employees of Agency	Payroll for employees	Admin Cost Allowance	7,803,135	520,209	130,052	260,104
4)	Loan Agreement/DDA	AMCAL	Senior Project Loan Agreement	Low Mod Income Housing Fund	2,643,730	2,643,730	600,000	2,043,730
5)	Professional Services (through 2026)	McGregor Shott	Marketing and graphic design	Admin Cost Allowance	151,815	10,121	7,590	2,531
6)	Professional Services (through 2026)	BB&K	Legal counsel	Admin Cost Allowance	360,000	24,000	6,000	12,000
7)	Administration (through 2026)	Various	Operations & maintenance	Admin Cost Allowance	3,234,450	215,630	53,907	107,814
8)	Administration (through 2026)	Town of Apple Valley	Operating Transfer	Admin Cost Allowance	7,071,540	471,436		471,436
9)	Loan to 80% for ERAF	PA2 - 20 Percent Low Income Fund	Loan to Pay ERAF	Low Mod Income Housing Fund	375,506			
10)	HELP Loan	Cal HFA	Loan for Down Payment Assistance	Low Mod Income Housing Fund	145,000			
<b>Subtotal</b>					<b>\$83,761,761</b>	<b>\$6,270,826</b>	<b>\$1,990,400</b>	<b>\$4,090,466</b>

PASS THROUGHS (PA2)									
1)		AV Parks and Rec		Redevelopment Property Tax Trust Fund		35,060.22		15,012	
2)		AV Fire Protection Dist		Redevelopment Property Tax Trust Fund		79,253.10		33,935	
3)		AV Unified School Dist		Redevelopment Property Tax Trust Fund		265,924.16		113,866	
4)		County Sup of Schools		Redevelopment Property Tax Trust Fund		8,673.32		3,714	
5)		Victor Valley College		Redevelopment Property Tax Trust Fund		56,986.39		24,401	
6)		County of San Bern		Redevelopment Property Tax Trust Fund		160,548.81		68,745	
7)		CSA 60-Victorville		Redevelopment Property Tax Trust Fund		8,801.35		3,769	
8)		MD Resource Conserv Dist		Redevelopment Property Tax Trust Fund		42.24		18	
9)		Mojave Water Agency		Redevelopment Property Tax Trust Fund		4,528.05		1,939	
10)		Town of AV		Redevelopment Property Tax Trust Fund		40,151.89		17,193	
<b>Subtotal Pass Throughs</b>						<b>659,969.53</b>		<b>282,592</b>	
<b>TOTALS</b>						<b>\$86,145,561</b>	<b>\$6,930,796</b>	<b>\$1,642,899</b>	<b>\$4,720,557</b>