

PLACER COUNTY
REDEVELOPMENT AGENCY

MEMORANDUM

TO: Honorable Members of the Redevelopment Agency Board
FROM: Thomas M. Miller, Director
James LoBue, Deputy Director
DATE: August 26, 2011
SUBJECT: Enforceable Obligations Payment Schedule

ACTION REQUESTED: Adopt a resolution approving a Redevelopment Agency Enforceable Obligations Payment Schedule and directing that it be posted and submitted to the County Auditor-Controller, and the California State Controller Office and Department of Finance.

BACKGROUND: On June 29, 2011, the California Governor signed into law ABx1-26 and ABx1-27, which required the elimination of all local redevelopment agencies in California unless the legislative bodies for those agencies adopted ordinances to commit to making substantial payments to local school districts and other special districts. The legislation also prohibited redevelopment agencies from entering into any new financial obligations and taking numerous other actions until such time that the agencies' legislative bodies adopted the mandated ordinances. The Placer County Board of Supervisors adopted an urgency ordinance (Ordinance No. 5649-B) on August 9, 2011 to commit to using Redevelopment Agency (Agency) funds to make the so-called 'Voluntary Payments' to local school districts and other special districts. The payments were estimated at \$3,806,964 for Fiscal Year 2011-12 and \$895,756 for future fiscal years.

With the Board of Supervisors adoption of the Voluntary Payment Ordinance, the freeze on new Agency transactions imposed by ABx1-26 was lifted and the Agency was authorized to recommence Agency business. In the meantime, on July 18, 2011, the California Redevelopment Association, League of California Cities, and specific municipalities filed litigation challenging ABx1-26, the Redevelopment Agency Dissolution Act, and ABx1-27, allowing voluntary continuation (*California Redevelopment Assn. v. Matosantos*, S194861). On August 11, 2011, the California Supreme Court accepted review in the case and, at the same time, issued a partial stay of the provisions of ABx1-26 and ABx1-27. The Court stayed the effect of ABx1-27 in its entirety. The Court also stayed all provisions of ABx1-26 except those that restrict redevelopment agency activities to maintaining existing assets and enforceable obligations (Health & Safety Code (HSC) sections 34161 – 34167).

On August 17, 2011, pursuant to a request by petitioners, the Supreme Court issued an order modifying its August 11, 2011 stay. This clarification lifted the stay on the right to appeal the State's community remittance payment determination under ABx1-27 and lifted the stay on H&SC 34169 (ABx1-26), which requires the adoption of an Enforceable Obligations Payment Schedule (EOPS) within 60 days of the effective date of ABx1-26 and the preparation of an Initial Recognized Obligation Payment Schedule (IROPS) no later than September 30, 2011 (HSC section 34169). While the Court extended the appeal deadline to August 22, 2011, it did not extend the EOPS and IROPS deadline dates. The statutory deadline to adopt an EOPS is sixty days after the effective date of ABx1-26 or August 28, 2011.

On August 22, 2011, petitioners filed another request for clarification of the Court's stay. Petitioners are asking the Court to exempt those RDAs that opted into the Voluntary Program pursuant to ABx1-27 prior to the August 11, 2011 stay from the restrictions outlined in HSC sections 34161 – 34169. Petitioners also seek to lift the stay on the “opt in” provisions of ABx1-27 so that agencies who have not yet enacted opt-in ordinances may continue to do so. It is unknown how or when the Court will respond to this latest request for clarification. Under the current terms of the stay order issued by the California Supreme Court, each redevelopment agency must adopt a schedule of its enforceable obligation before August 28, and if it does not do so, the Agency cannot pay any obligations except debt service.

EOPS Requirements

Under ABx1-26, an EOPS was required only for those redevelopment agencies who decided to dissolve or who did not enact an ordinance to opt into the Voluntary Program before October 1, 2011. However, if an opt-in ordinance was enacted prior to October 1, 2011, the statutory provisions to prepare and adopt an EOPS were no longer binding on that agency. (HSC section 34192) However the Supreme Court's Order has changed that. The California Redevelopment Association (CRA) has issued a recommendation that all redevelopment agencies adopt an EOPS prior to August 28, 2011 regardless of whether the agency enacted an opt-in ordinance prior to the August 11, 2011 Court stay. If an EOPS is not adopted prior to August 28, 2011, CRA has further advised that the Agency will be prohibited from making any payments, including those for enforceable obligations, except those required to meet obligations of bonded indebtedness. These payment restrictions are even more severe than those mandated before an agency's decision to make the voluntary payments and continue operation. Prior to the adoption of our ordinance, the legislation allowed and, in fact, mandated the Agency to fulfill its enforceable obligations. The impact of the stay order places the Agency in an untenable position. If it fails to adopt an EOPS prior to August 28, 2011, it will be unable under the legislation to pay even essential expenses such as rent or property maintenance until an EOPS is adopted. It runs the risk of ignoring the legislative mandate or defaulting on its existing obligations. The other solution, which the Agency brings forward to your Board for consideration is the adoption of an EOPS during a special meeting.

An EOPS must list all “enforceable obligations” as defined in ABx1-26. These include existing bond indebtedness, existing third-party agreements, leases, contracts, and Agency administration expenses. The Agency's EOPS also includes the four items that were authorized by your Board on August 9, 2011, after the Board of Supervisors enacted the urgency ordinance. Once adopted by your Board, the Agency must post the EOPS on its website and transmit a copy of the same to the County Auditor and the State.

EOPS Tables

The EOPS tables provided as an attachment represent existing obligations of the Agency to continue its basic operations, pay debt service, maintain Agency assets, and implement existing contracts, purchase orders, agreements, and memoranda of understanding. The obligations include pre-existing agreements, agreements authorized by your Board at the August 9, 2011 meeting, and additional agreements that will be needed for the Agency to adequately maintain its assets, and meet pre-existing obligations. The schedule does not include expenditures for new projects or to support non-essential Agency operations.

ENVIRONMENTAL STATUS: The proposed resolution and adoption of the EOPS is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(5). All projects identified in the proposed EOPS are subject to separate environmental review under CEQA.

FISCAL IMPACT: On August 9, 2011, the Board of Supervisors and your Board approved a Remittance Agreement by which the Agency agreed to pay an estimated \$3,806,964 of FY 2011-12 tax increment funds and an estimated \$895,756 of annual future year tax increment funds to the County for distribution to local school districts and special districts, in compliance with provisions of ABx1-27. The proposed approval of an Enforceable Obligations Payment Schedule represents prior Agency financial commitments documented in previous Agency budgets and agreements.

Attachments: Resolution
Enforceable Obligations Payment Schedule

cc: Karin Schwab, Agency Counsel

**Before the Placer County
Redevelopment Agency Board of Directors
County of Placer, State of California**

In the matter of:

Approving a Redevelopment Agency Enforceable Obligations
Payment Schedule and directing that it be posted and submitted to the
County of Placer Auditor-Controller and the California State
Controller and Department of Finance

Reso. No. _____

Ord. No. _____

First Reading _____

**The following Resolution was duly passed by the Redevelopment Agency Board
of the County of Placer at a regular meeting held _____,**

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:

Chair, Agency Board

Clerk of said Board

WHEREAS, on August 9, 2011, the Placer County Board of Supervisors enacted Urgency Ordinance No. 5649-B (Opt-In Ordinance) memorializing its decision to opt into the "Voluntary Alternative Redevelopment Program" pursuant to ABx1 27.

WHEREAS, on August 11, 2011, the California Supreme Court accepted review and issued a stay in the case of *California Redevelopment Assn. v. Matosantos*, which case was filed by the CRA to challenge the constitutionality of ABx1 26 and ABx1 27.

WHEREAS, the August 11th order, which was further clarified by the Supreme Court on August 17, 2011, stays ABx1 27, except for the appeal provisions of the State's determination of the community remittance payments.

WHEREAS, the August 11th order, as clarified on August 17th, stays all provisions of ABx1 26 except those restricting redevelopment agency transactions to existing enforceable obligations and bond indebtedness.

WHEREAS, the August 17th Court clarification removes the stay from the ABx1 26 requirement for all redevelopment agencies to prepare an “Enforceable Obligations Payment Schedule” (EOPS) prior to August 29, 2011.

WHEREAS, the Court’s stay does not exempt agencies that enacted an Opt-In Ordinance prior to the August 11th stay from the requirement to prepare an EOPS.

WHEREAS, absent an adopted EOPS, the Agency would be prohibited from making any payments except bond debt service after August 29, 2011.

WHEREAS, the Agency has prepared an EOPS consistent with the provisions of ABx1 26.

NOW THEREFORE, BE IT RESOLVED the Placer County Redevelopment Agency Board of Directors hereby adopts the EOPS attached hereto as Exhibit A.

BE IT FURTHER RESOLVED the Placer County Redevelopment Agency Board of Directors directs the Deputy Director to post the EOPS on the Agency web site and transmit a copy of the same to the County Auditor-Controller, the State Controller, and State Department of Finance.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately after adoption.