



AGENDA REPORT

City of Adelanto
Adelanto Governmental Center
11600 AIR EXPRESSWAY
ADELANTO, CALIFORNIA 92301

DATE: August 24, 2011
TO: Honorable Mayor and City Council Members
FROM: D. James Hart, Ph.D., City Manager
BY: George Harris, Deputy City Manager/Management Services

SUBJECT: ADOPT THE ADELANTO REDEVELOPMENT AGENCY
(ARDA) ENFORCEABLE OBLIGATION PAYMENT
SCHEDULE TO CONFORM WITH HEALTH AND
SAFETY CODE SECTIONS 34167(h) AND 34169(g).

STAFF RECOMMENDATION:

Staff recommends the City Council adopt the Adelanto Redevelopment Agency (ARDA) enforceable obligation payment schedule to conform with Health and Safety code sections 34167(h) and 34169(g).

BACKGROUND:

On June 29, 2011, Governor Brown signed several budget trailer bills to implement the State Budget for Fiscal Year 2011/2012: ABx1 26 (the "Dissolution Act") immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011; and ABx1 27 (the "Continuation Act") allows redevelopment agencies to avoid dissolution under the Dissolution Act if their host cities/counties elect to comply with the alternative redevelopment program described in Part 1.9 thereof. Under the Continuation Act, a redevelopment agency can continue to exist if its host community commits to making certain payments beginning in January of 2012. The legislation allows the Agency to transfer funding to the City for the purpose of making the payments.

Pursuant to the express language of the Continuation Act, the Agency's powers were restored as of the "enactment" of the ordinance. Technically, "enactment" takes place upon the passage of the motion to approve the ordinance. Therefore, based upon the language of the legislation, the Agency's powers were restored upon either the adoption of an urgency ordinance or second reading of the regular ordinance, or both. The City Council adopted **Ordinance 503U** on August 10, 2011 and **Ordinance 504** on August 24th 2011, declaring the City's decision to comply with the Continuation Act in order to enable the Agency to resume its redevelopment activities

Within 60 days of the Governor's signing of the bills, cities that were *not* intending to "opt in" to the Continuation Act were required adopt an Enforceable Obligation Payment

Schedule (“EOPS” or “Schedule”). The Schedule is required to list all of a redevelopment agency’s monetary obligations that are “enforceable” within the meaning of the Dissolution Act. The list is to include:

(A) The project name associated with the obligation.

(B) The payee.

(C) A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.

(D) The amount of payments obligated to be made, by month, through December 2011.

Certain types of payment schedules (e.g., schedules for bond payments and employee costs) may be aggregated. The Schedule must be adopted at a public meeting and shall be posted on the agency’s or host community’s website. Once adopted, the Schedule may be amended at any public meeting of the agency. After adoption or amendment, the Schedule is to be provided to the county auditor-controller, the State Controller, and the Department of Finance.

Based upon the entire statutory scheme signed by the Governor, if a city chose to adopt an opt-in ordinance, it was not subject to the requirement to adopt an Enforceable Obligation Payment Schedule. For this reason, Agency staff had not anticipated preparing or presenting such a schedule.

The California Redevelopment Association, the League of California Cities, and two cities filed a legal challenge to Dissolution Act and the Continuation Act directly in the California Supreme Court. On August 11th, the Court issued an order indicating that it would exercise jurisdiction over the lawsuit. The Court set an expedited briefing schedule to allow it to decide the case before the first payment is due in January 2012. The Court also stayed the effectiveness of all of the Continuation Act, and some of the Dissolution Act. Unfortunately, the portion of the Dissolution Act that was not stayed creates uncertainties. Specifically, while the Court appears to have suspended the effect of the statute requiring the preparation and adoption of the Enforceable Obligation Payment Schedule, it left intact the following provision contained in Health and Safety Code Section 34167(h), which provides:

After the enforceable obligation payment schedule is adopted pursuant to Section 34169, or after 60 days from the effective date of this part [June 29, 2011], whichever is sooner, the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment schedule, other than payments required to meet obligations with respect to bonded indebtedness.

Under the totality of the legislative scheme, this provision would not have applied to the Agency because it intended to “opt in” under the Continuation Act. However, since the legislation under which it opted in is now on hold, the concern is that if no Schedule is adopted, one could argue that the Agency could make no payments after August 29, 2011. While this would be an absurd result, since the City had already taken the steps to opt in, Agency staff and Agency Counsel do not wish to run the risk that payments made without such a list could be challenged at a later date. For this reason, Agency staff recommend that

the Agency Board of Directors adopt the Schedule, which may be amended at a later meeting if necessary to add or modify any enforceable obligations that would be subject to Agency payments.

FINDINGS AND ALTERNATIVES:

The alternatives available to the Agency Board include:

1. Adopt the Agency's Enforceable Obligation Payment Schedule to conform with Health and Safety Code Sections 34167(h) and 34169(g); or
2. Do not adopt the Agency's Enforceable Obligation Payment Schedule; or
3. Provide staff with alternative direction.

FISCAL IMPACT:

None for this action. The purpose of adopting the Enforceable Obligation Payment Schedule is to ensure that the Agency may be able to continue to make certain payment.

ATTACHMENTS:

1. Enforceable Obligation Payment Schedule

ENFORCEABLE OBLIGATION PAYMENT
 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)	Adelanto Improvement Project, Tax Allocation Bonds, Issue 1993B	Trustee - Union Bank and Trust	Finance Costs of Redevelopment Plan Implementation	\$ 10,205,000.00	\$ 1,146,950.00					\$ 881,162.50	\$ 881,162.50
2)	Adelanto Public Financing Authority, Local Agency Taxable Subordinated Revenue Bonds 1995 Series A	Trustee - Union Bank and Trust	Various Agency Activities	\$ 2,590,000.00	\$ 202,020.00		\$ 108,780.00				\$ 108,780.00
3)	Adelanto Public Financing Authority, Local Agency Second Subordinated Revenue Bonds 1995 Series B	Trustee - Union Bank and Trust	Various Agency Activities	\$ 14,275,000.00	\$ 1,369,680.00		\$ 855,780.00				\$ 855,780.00
4)	Adelanto Public Financing Authority, Local Agency Third Subordinated Revenue Bonds 1995 Series C	Trustee - Union Bank and Trust	Various Agency Activities	\$ 13,905,492.00	\$ 1,027,331.00				\$ 503,539.00		\$ 503,539.00
5)	Adelanto Improvement Project Area No. 3, 2007 Tax Allocation Bonds	Trustee - Union Bank and Trust	Economic Development along HWY 395 and Seneca	\$ 3,280,000.00	\$ 251,869.00		\$ 154,037.50				\$ 154,037.50
6)	County of San Bernardino Tax increment Loan	County of San Bernardino	Tax Increment Loan per Settlement and Loan Agreement	\$ 19,588,050.00	Surplus TI						\$ -
7)	Intermountain Power Agency Settlement Agreement	Intermountain Power Agency	Settlement Agreement	\$ 1,989,390.00	Surplus TI Subordinate to County of SB						\$ -
8)	Note Payable to City of Adelanto	City of Adelanto	Note Payable to Adelanto for original formation costs	\$ 2,524,243.00	Surplus TI Subordinate to County of SB & Intermountain						
9)											
10)											
11)											
	Totals - This Page			\$ 68,357,175.00	\$ 3,997,850.00	\$ -	\$ 1,118,597.50	\$ -	\$ 503,539.00	\$ 881,162.50	\$ 2,503,299.00
	Totals - Other Obligations			\$ -	\$ 1,697,475.04	\$ -	\$ -	\$ -	\$ -	\$ 1,697,475.04	\$ 1,697,475.04
	Totals - All Pages			\$ 68,357,175.00	\$ 5,695,325.04	\$ -	\$ 1,118,597.50	\$ -	\$ 503,539.00	\$ 2,578,637.54	\$ 4,200,774.04

* 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.

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

Payments by Month

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Aug**	Sept	Oct	Nov	Dec	Total
1	County of San Bernardino Pass Through Payment	County of San Bernardino	15.7% of total Tax Increment	N/A	\$ 1,116,391.00					\$ 1,116,391.00	\$ 1,116,391.00
2	District Pass-Through Payment for 80-1 & Amended 80-1 Project Area	Adelanto Unified School District	1.8% of total tax Increment	N/A	\$ 127,993.82					\$ 127,993.82	\$ 127,993.82
3	Library Pass-Through Payment for 80-1 & Amended 80-1 Project Area	County of San Bernardino Library	1.6% of total tax Increment	N/A	\$ 113,772.29					\$ 113,772.29	\$ 113,772.29
4	Superintendent Pass-through for 80-1 & Amended 80-1 Project Area	County Superintendent of Schools	1.02% of total tax Increment	N/A	\$ 72,529.83					\$ 72,529.83	\$ 72,529.83
5	CSA 60 Share Pass-through for 80-1 & Amended 80-1 Project Area	CSA 60 via County of San Bernardino	1.14% of total tax Increment	N/A	\$ 81,062.76					\$ 81,062.76	\$ 81,062.76
6	Project Area 3 Pass through to County General	County of San Bernardino	16.577% of total tax increment	N/A	\$ 14,187.28					\$ 14,187.28	\$ 14,187.28
7	ERAF	State of CA		N/A	\$ 21,482.47					\$ 21,482.47	\$ 21,482.47
8	Project Area 3 Pass through to Flood Control Zone 4	County of San Bernardino Flood Control	2.619% of total tax increment	N/A	\$ 2,241.45					\$ 2,241.45	\$ 2,241.45
9	Project Area 3 Pass through to Flood Control Admin 3-6	County of San Bernardino Flood Control	.10% of total tax increment	N/A	\$ 85.58					\$ 85.58	\$ 85.58
10	Project Area 3 Pass through to County Free Library	County of San Bernardino Library	1.605% of total tax increment	N/A	\$ 1,373.63					\$ 1,373.63	\$ 1,373.63
11	Project Area 3 Pass through to Superintendent of Schools	County Superintendent of Schools	1.293% of total tax increment	N/A	\$ 1,106.60					\$ 1,106.60	\$ 1,106.60
12	Project Area 3 Pass through to City of Adelanto	City of Adelanto	1.749% of total tax increment	N/A	\$ 1,496.87					\$ 1,496.87	\$ 1,496.87
13	Project Area 3 Pass through to Victory Valley Community College	Victory Valley Community College	7.449% of total tax increment	N/A	\$ 6,375.16					\$ 6,375.16	\$ 6,375.16
14	Project Area 3 Pass through to Adelanto Elementary School Dist	Adelanto Elementary School Dist	21.569% of total tax increment	N/A	\$ 18,459.64					\$ 18,459.64	\$ 18,459.64
15	Project Area 3 Pass through to Victor Valley Union High School	Victor Valley Union High School	20.299% of total tax increment	N/A	\$ 17,372.72					\$ 17,372.72	\$ 17,372.72
16	Project Area 3 Pass through to CSA 60 - Victorville	CSA 60 via County of San Bernardino	1.149% of total tax increment	N/A	\$ 983.36					\$ 983.36	\$ 983.36
17	Project Area 3 Pass through to Mojave Desert Resource Conservation	Mojave Desert Resource Conservation	.064% of total tax increment	N/A	\$ 54.77					\$ 54.77	\$ 54.77
18	Project Area 3 Pass through to Mojave Water Agency	Mojave Water Agency	591% of total tax increment	N/A	\$ 505.80					\$ 505.80	\$ 505.80
19	City of Adelanto Administrative Costs	City of Adelanto	\$100,000 Annually per CAP	N/A	\$ 100,000.00					\$ 100,000.00	\$ 100,000.00
Totals - This Page				\$	\$ 1,697,475.04	\$	\$	\$	\$	\$ 1,697,475.04	\$ 1,697,475.04