

VICTORVILLE REDEVELOPMENT AGENCY

RESOLUTION NO. R-12-001

RESOLUTION OF THE BOARD OF DIRECTORS OF THE VICTORVILLE REDEVELOPMENT AGENCY APPROVING AND ADOPTING AN AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34169

WHEREAS, the Victorville Redevelopment Agency (the “Agency”) has been duly created and activated pursuant to the provisions of the California Community Redevelopment Law, Health and Safety Code sections 33000, *et seq.* (the “CRL”) by a duly adopted Ordinance of the City of Victorville, California (the “City”); and

WHEREAS, the Agency previously caused the adoption of the Bear Valley Road Redevelopment Plan and the Old Town/Midtown Redevelopment Plan both of which were approved and adopted by the City; and

WHEREAS, pursuant to that certain Fourth Amended and Restated Joint Exercise of Powers Agreement Establishing the Victor Valley Economic Development Authority, the Victor Valley Economic Development Authority has delegated certain decision-making authority to the Agency with respect to the administration of the 1993 Victor Valley Redevelopment Plan in relation to that portion of the project area subject to the Redevelopment Plan which is located within the City (the Bear Valley Road Redevelopment Plan, the Old Town/Midtown Redevelopment Plan, and the 1993 Victor Valley Redevelopment Plan shall sometimes hereinafter be collectively referred to as the “Redevelopment Plans”); and

WHEREAS, since adoption of the Redevelopment Plans, the Agency has undertaken redevelopment projects in the project areas subject to the Redevelopment Plans (collectively, the “Project Areas”) in order to eliminate blight, improve public facilities and infrastructure, renovate and construct affordable housing, and enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, on or about June 28, 2011, as part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed companion bills, ABx1 26 and ABx1 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments (collectively, the “Redevelopment Restructuring Bills”); and

WHEREAS, specifically, ABx1 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011 (the “Dissolution Bill”); and

WHEREAS, further, ABX1 27 provides that a community may participate in an “Alternative Voluntary Redevelopment Program,” in order to enable a redevelopment agency

within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code (the "Continuation Bill"); and

WHEREAS, the Alternative Voluntary Redevelopment Program requires that the City agree by ordinance to remit specified annual amounts to the county auditor-controller; and

WHEREAS, on August 2, 2011, under the threat of dissolution pursuant to the Dissolution Bill, and upon the contingencies and reservations set forth therein, the City adopted Ordinance No. 2277, in which it agreed to make the Fiscal Year 2011-2012 community remittance as well as the subsequent annual community remittances as set forth in the CRL (the "Continuation Ordinance"); and

WHEREAS, the validity of Redevelopment Restructuring Bills was challenged by petitioners in California Redevelopment Association v. Matosantos, Case No. S194861, as violating the State Constitution and other laws (the "CRA Action"); and

WHEREAS, on August 11, 2011, the California Supreme Court issued a partial stay on the CRA Action, by, among other things, staying the Continuation Bill (Chapter 6, Statutes 2011, First Extraordinary Session) in its entirety and staying all of the Dissolution Bill (Chapter 5, Statutes 2011, First Extraordinary Session), with the exception of Sections 34161-34167 of Division 24, Part 1.8 of the Health and Safety Code (the "Partial Stay"); and

WHEREAS, on August 17, 2011, the California Supreme Court modified the Partial Stay by providing that the request to stay Sections 34161-34169.5 of Division 24, Part 1.8 of the Health and Safety Code was denied (the "Modified Partial Stay"); and

WHEREAS, pursuant to Health and Safety Code section 34169 ("Section 34169"), a redevelopment agency is required to adopt an Enforceable Obligation Payment Schedule that lists all of the obligations that are considered enforceable within the meaning of Health and Safety Code Section 34167(d); and

WHEREAS, pursuant to Health and Safety Code section 34167(h), the Agency is prohibited from making a payment unless it is listed on an adopted Enforceable Obligation Payment Schedule, other than payments required to meet obligations with respect to bonded indebtedness; and

WHEREAS, on or about August 25, 2011, in accordance with the terms of the Modified Partial Stay and Section 34169, the Agency adopted an Enforceable Obligation Payment Schedule which represented payments to be made by the Agency through December 31, 2011; and

WHEREAS, on or about December 29, 2011, the California Supreme Court issued an opinion in the CRA Action which effectively upheld the Dissolution Bill and invalidated the Continuation Bill; and

WHEREAS, in its decision, the California Supreme Court extended certain deadlines set forth in the Dissolution Bill in light of delays resulting from the CRA Action and the Modified Partial Stay; in particular, any deadline which occurs prior to May 1, 2012 was extended by four months; and

WHEREAS, similarly, and as a result of such extension, the Agency deems it desirable to amend the Enforceable Obligation Payment Schedule previously adopted in order to extend the expiration of the time period covered by the Enforceable Obligation Payment Schedule from December 31, 2011 to April 30, 2012; and

WHEREAS, in light of the terms of the Modified Partial Stay and the Supreme Court's decision in the CRA Action, the Agency has prepared the Amended Enforceable Obligation Payment Schedule attached hereto as Exhibit "A" and incorporated herein by this reference setting forth all the obligations which the Agency has determined are enforceable obligations within the meaning of Section 34167(d) and which represent payments to be made through April 2012; and

WHEREAS, the Agency does not nor does it intend through the adoption of this Resolution or otherwise, to waive any constitutional and/or legal rights to challenge the constitutionality and/or lawfulness of the Dissolution Bill.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE VICTORVILLE REDEVELOPMENT AGENCY DOES HEREBY FIND, RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals

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

Section 2. Adoption of Amended Enforceable Obligation Payment Schedule

In accordance with Health and Safety Code Section 34169, and based on the Recitals set forth above, the Agency Board hereby adopts the Amended Enforceable Obligation Payment Schedule attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 3. Under Protest

While the Agency currently intends to comply with the provisions of Sections 34167 and 34169 in accordance with the Supreme Court's decision with respect to the CRA Action, the Agency still contends that the Dissolution Bill is unconstitutional and illegal and that any Agency compliance with the Dissolution Bill is under protest and without prejudice to the Agency's right to challenge the legality and constitutionality of the Dissolution Bill.

Section 4. Implementation

The Agency Board hereby authorizes and directs the Agency's Executive Director, or the Executive Director's designee, to: (1) post the Amended Enforceable Obligation Payment Schedule on the Agency and/or the City's websites; (2) designate an Agency representative to whom all questions related to the Amended Enforceable Obligations Payment Schedule may be directed; (3) notify, by mail or electronic means, the County Auditor-Controller, the Department of Finance, and the Controller of the Agency's action to adopt the Amended Enforceable Obligation Payment Schedule and to provide those persons with the internet website location of the posted schedule and the contact information for the Agency's designated contact; and (4) to execute and deliver such documents and instruments and to do such things which may be necessary or proper to effectuate the purposes of this Resolution and to implement the Amended Enforceable Obligation Payment Schedule on behalf of the Agency.

Section 5. CEQA

The Agency Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a "project," but instead consists of the continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program.

Section 6. Effective Date

This Resolution shall take effect upon its adoption.

Section 7. Certification

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

Resolution No. R-12-001

PASSED, APPROVED AND ADOPTED this 17th DAY OF JANUARY 2012.



CHAIRMAN OF THE BOARD OF DIRECTORS

ATTEST:



AGENCY SECRETARY

APPROVED AS TO FORM:



REDEVELOPMENT AGENCY COUNSEL

I, CAROLEE BATES, City Clerk of the City of Victorville and ex-officio Secretary to the Victorville Redevelopment Agency, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. R-12-001, which was adopted at a meeting, held on the 17th day of January 2012, by the following roll call vote, to wit:

AYES: Board Members Cabriales, Kennedy, McEachron, and Rothschild

NOES: Board Member Valles

ABSENT: None

ABSTAIN: None



DEPUTY CITY CLERK OF THE CITY OF VICTORVILLE

EXHIBIT "A"

AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

[SEE ATTACHED]

Victorville Redevelopment Agency
 Bear Valley Road/Hook Boulevard, Old Town/Midtown and Victorville's portion of the Victor Valley Project Areas

Name of Redevelopment Agency:
 Project Area(s)

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

Project Name / Debt Obligation	Payee	Description	Payments by month												Total
			Aug	Sept	Oct	Nov	Dec	Jan 2012	Feb 2012	March 2012	April 2012				
1) Series 2002A Tax Allocation Bonds	The Bank of New York Trust Company, N.A.	RDA Bond Issue												441,325.00	\$ 441,325.00
2) Series 2003A Tax Allocation Bonds	The Bank of New York Trust Company, N.A.	RDA Bond Issue												473,813.00	\$ 473,813.00
3) Series 2003B Tax Allocation Bonds	The Bank of New York Trust Company, N.A.	RDA Bond Issue												230,082.00	\$ 230,082.00
4) Series 2006A Tax Allocation Bonds	The Bank of New York Trust Company, N.A.	RDA Bond Issue												929,154.00	\$ 929,154.00
5) Pass Through Payment (HS Sec 33607.7)	County of San Bernardino - Flood Control Zone 4 & Admin	Pass Through Payment (Bear Valley Road Project Area)	14,084.91												\$ 14,084.91
6) Pass Through Payment (HS Sec 33607.7)	City of Victorville	Pass Through Payment (Bear Valley Road Project Area)	104,168.21												\$ 104,168.21
7) Pass Through Payment (HS Sec 33607.7)	Mojave Desert Resource Conservation	Pass Through Payment (Hook Boulevard)	356.22												\$ 356.22
8) Pass Through Payment (HS Sec 33607.7)	City of Victorville	Pass Through Payment (Hook Boulevard)	52,570.53												\$ 52,570.53
9) Pass Through Payment (HS Sec 33607.7)	Mojave Desert Resource Conservation	Pass Through Payment (Old Town/Midtown)	163.32												\$ 163.32
10) Pass Through Payment (HS Sec 33607.7)	County of San Bernardino - General Fund	Pass Through Payment (Old Town/Midtown)	6,486.76												\$ 6,486.76
11) Pass Through Payment (HS Sec 33607.7)	County of San Bernardino - Flood Control Zone 4 & Admin	Pass Through Payment (Old Town/Midtown)	1,063.78												\$ 1,063.78
12) Pass Through Payment (HS Sec 33607.7)	County of San Bernardino Superintendent of Schools	Pass Through Payment (Old Town/Midtown)	441.84												\$ 441.84
13) Pass Through Payment (HS Sec 33607.7)	City of Victorville	Pass Through Payment (Old Town/Midtown)	9,474.48												\$ 9,474.48
14) Pass Through Payment (HS Sec 33607.7)	Victor Valley Community College	Pass Through Payment (Old Town/Midtown)	2,815.11												\$ 2,815.11
15) Pass Through Payment (HS Sec 33607.7)	Victor Elementary	Pass Through Payment (Old Town/Midtown)	9,463.24												\$ 9,463.24
16) Pass Through Payment (HS Sec 33607.7)	Victor Valley High School	Pass Through Payment (Old Town/Midtown)	7,943.63												\$ 7,943.63
17) Pass Through Payment (HS Sec 33607.7)	Mojave Desert Resource Conservation	Pass Through Payment (Old Town/Midtown)	19.46												\$ 19.46
18) Pass Through Payment (HS Sec 33607.7)	Mojave Water Agency	Pass Through Payment (Old Town/Midtown)	227.69												\$ 227.69
19) Housing set aside	LMHF	Estimated FY 11-12 mandatory housing set-aside												1,139,109.00	\$ 1,139,109.00
Totals - Other Obligations			\$ 209,379.18	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,213,483.00	\$ 3,422,862.18