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# Sierra Madre Community Redevelopment Agency Agenda Report

TO: Honorable Mayor and Members of the City Council

FROM: Elaine I. Aguilar, City Manager

INITIATED BY: Karin Schnaider, Administrative Services Director

DATE: August 25, 2011

**SUBJECT: SPECIAL MEETING FOR CONSIDERATION OF RESOLUTION 450:  
A RESOLUTION OF THE SIERRA MADRE COMMUNITY  
REDEVELOPMENT AGENCY TO APPROVE AN ENFORCEABLE  
OBLIGATION PAYMENT SCHEDULE (EOPS)**

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## **SUMMARY**

In June 2011, the State of California passed AB X1 26, a bill that would dissolve redevelopment agency and AB 1X 27 a bill that would allow agencies to “opt-in” to a payment made to the State so that the agency may continue operations. On July 26, 2011, the City Council adopted Urgency Ordinance 1320 and held the first reading of Ordinance 1320. On August 9, 2011, the City Council approved second reading of Ordinance 1320.

During this same time line, the CRA and League of California Cities filed a joint lawsuit asking the California Supreme Court to overturn AB 1X 26 and AB 1X 27 because they violate the Constitution. Last week, the California Supreme Court granted the CRA/League request for a stay; however, two parts of the AB 1X 26 were not granted in the stay:

1. Enforceable Obligations Payment Schedule: The provisions of AB1X 26 that require an agency to adopt an Enforceable Obligations Payment Schedule (“EOPS”) within 60 days after the effective date of the bill (i.e., August 29, 2011) are not stayed. This means that all agencies should adopt an EOPS before August 29.
2. Preliminary Recognized Obligation Payment Schedule: The provisions of AB1X 26 that require an agency to prepare a preliminary draft of the initial Recognized

Obligation Payment Schedule no later than September 30, 2011, are not stayed. Agencies should also comply with this deadline.

## **ANALYSIS**

AB X1 26 was signed by the Governor of California on June, 29, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the California Health and Safety Code. Commencing upon the effectiveness of AB X1 26, AB X1 26 suspends most redevelopment agency activities and, among other things, prohibits redevelopment agencies from incurring indebtedness or entering into or modifying contracts. Effective October 1, 2011, AB X1 26 dissolves all existing redevelopment agencies and redevelopment agency components of community development agencies, designates successor agencies to the former redevelopment agencies, imposes numerous requirements on the successor agencies and subjects successor agency actions to the review of oversight boards established pursuant to the provisions of Part 1.85.

As part of AB 1X 26, the agency is required to file an "Enforceable Obligation Payment Schedule" (EOPS) by August 29, 2011. The EOPS form is a list in order of obligation that lays out all contractual commitments of the agency up to the point of that the successor agency would take over the obligations, assumed to be by December 2011. The list must be approved at an open meeting of the Agency Board and then submitted to the Department of Finance for approval. The agency is not allowed to enter into new obligations after July 2011 nor make payments without an approved Payment Schedule.

Agencies were given an option to not dissolve and to continue operations if it adopted an ordinance committing certain Agency funds to the State. The City of Sierra Madre chose to continue its agency operations and adopted Ordinance 1320. This was believed to be sufficient to meet the requirements of AB 1X 27 and the Enforceable Obligation Payment Schedule was assumed to no longer be required.

During this period, the California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California alleging that AB X1 26 and 27 are unconstitutional. On August 11, 2011, the Supreme Court of California decided to hear the case and set a briefing schedule designed to allow the Supreme Court to decide the case before January 15, 2012. On August 11, 2011, the Supreme Court also issued a stay order, which was subsequently modified on August 17, 2011. Pursuant to the modified stay order, the Supreme Court granted a stay of all of AB X1 27 (i.e., Part 1.9), except for Health and Safety Code Section 34194(b)(2) (relating to the determination of the amount of a city's remittance for fiscal year 2011-12 under the Alternative Voluntary Redevelopment Program) and a partial stay of AB X1 26. With respect to AB X1 26, Part 1.85 was stayed in its entirety, but Part 1.8 (including Health and Safety Code Sections 34167 and 34169) was not stayed. Accordingly, the Agency

must adopt an Resolution 450: Enforceable Obligation Payment Schedule (Attached) and submit it to the Department of Finance before August 29, 2011.

### **FINANCIAL REVIEW**

The Enforceable Obligation Payment Schedule is a listing of all debt, contracts, agreements, and commitments made by the Agency board prior to July 2011. These items have been approved in prior public meetings of the Agency board and have been appropriated in the City/Agency's FY 2011-2012 biennial budget. The City entered into one agreement after July 2011, but after the Urgency Ordinance U-1320 was adopted on July 26, 2011. As a result, the contract with Rite-Way Roof Corporation for the re-roofing of the City Hall and Police/Fire are not included on the EOPS report. This contractor has been told this contract is pending further decisions of the California Supreme Court.

### **ALTERNATIVES**

The Agency may choose to not adopt Resolution 450: Sierra Madre Community Redevelopment's Enforceable Obligation Payment Schedule for FY 2011-2012. However, without an approved payment schedule, the City's would not be authorized to make payment on behalf of the Agency. Many of these contracts are currently underway and the City's obligation to pay the contractors has already been incurred. This could put the City financially at risk of using other funds to meet the obligations that have been earmarked with Agency funds.

### **PUBLIC NOTICE**

This item has been noticed through the regular agenda notification process. Copies of this report are available at the City Hall public counter and the Sierra Madre Public Library.

### **RECOMMENDATION**

It is recommended that the Agency Board adopt Resolution 450: Sierra Madre Community Redevelopment Agency's Enforceable Obligation Payment Schedule and authorizes the Administrative Services Director to act as liaison to the Department of Finance during the approval process of the EOPS report.

Attachments: Resolution 450: A RESOLUTION OF THE SIERRA MADRE COMMUNITY REDEVELOPMENT AGENCY TO APPROVE AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE (EOPS)

**RESOLUTION NO. 450**

**A RESOLUTION OF THE SIERRA MADRE COMMUNITY  
REDEVELOPMENT AGENCY TO APPROVE AN  
ENFORCEABLE OBLIGATION PAYMENT SCHEDULE (EOPS)**

WHEREAS, Assembly Bill x1 26 ("AB 26") and AB x1 27 ("AB 27") were passed by the State Legislature on June 15, 2011 and signed by the Governor on June 28, 2011; and

WHEREAS, among other things, AB 26 amends Sections 33500, 33501, 33607.5 and 33607.7 of the Health and Safety Code and adds Part 1.8 and Part 1.85 to the California Health and Safety Code; and

WHEREAS, on August 11, 2011, the California Supreme Court granted a stay to prevent the operation of AB 26 and AB 27 ("Stay"), except for Part 1.8 of the Health and Safety Code (Health & Safety Code §§ 34161-34167); and

WHEREAS, on August 17, 2011, the California Supreme Court modified the Stay to exclude Part 1.8 of the Health and Safety Code (Health and Safety Code §§ 34161-34169.5) and Health and Safety Code Section 34194(b)(2) ("Modified Stay"); and

WHEREAS, Health and Safety Code Section 34167(h)("Section 34167(h)") provides that the Agency may not make a payment unless it is listed in an adopted enforceable obligation payment schedule [EOPS], other than payments required to meet obligations with respect to bonded indebtedness and Health and Safety Code Section 34169.5(g) ("Section 34169.5(g)") provides that the Agency shall adopt an EOPS within sixty days of the effective date of AB 26.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Poway Redevelopment Agency as follows:

Section 1. Without waiving its rights under the Modified Stay, or any of its objections that certain or all of the provisions of AB 26 and AB 27 violate the State Constitution and other laws and are invalid and unenforceable, the Agency desires to adopt the EOPS attached hereto and incorporated by reference herein to preserve its rights to make payments as authorized under Section 34167(h).

Section 2. All other legal prerequisites to the adoption of this Resolution have occurred.

Section 3. The Agency hereby finds and determines that the foregoing recitals are true and correct.

Section 4. The EOPS attached hereto as "Exhibit" and incorporated by reference herein is hereby adopted.

Section 5. The Agency Executive Director, or designee, is hereby authorized to take such actions as are necessary and appropriate to comply with Section 34167(h), Section 34169.5(g) and the Modified Stay.

Section 6. This Resolution shall take effect immediately upon its adoption.

PASSED, ADOPTED AND APPROVED by the Sierra Madre Community Redevelopment Agency of the City of Sierra Madre at a special meeting this 25<sup>th</sup> day of August, 2011, by the following vote:

\_\_\_\_\_  
John Buchanan, Chairman

ATTEST:

\_\_\_\_\_  
Terri Highsmith, City Attorney

I, Anita Delmer, Deputy Secretary of the Sierra Madre Community Redevelopment Agency, do hereby certify under penalty of perjury that the foregoing Resolution No. 450 was duly adopted by the Board of Directors at a meeting of said Agency held on the 25<sup>th</sup> day of August, 2011, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
Anita Delmer, Deputy Secretary  
Redevelopment Agency

**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						
					Aug**	Sept	Oct	Nov	Dec	Total	
1) 1998 BOND	Bank of New York	Tax Increment Bond Debt	3,525,000.00	390,625.00			390,625.00				\$ 390,625.00
2) AB 1389-PASSTHROUGH	LA COUNTY AND PASADENA SCHOOL DISTRICT	AB 1389 PASS THROUGH	60,000.00	60,000.00			60,000.00				\$ 60,000.00
3) PFF Subsidy	Dr. Hani Sami	70% Subsidy of Public Facilities Fees	76,352.38	76,352.38		76,352.38					\$ 76,352.38
4) Memorial Park Playground	Great Western Park & Playground	Equipment for Memorial Park Playground	73,312.46	73,312.46		73,312.46					\$ 73,312.46
5) Hart Park House Renovation	B-One Construction	Renovation of the Senior Center	244,300.00	244,300.00		244,300.00					\$ 244,300.00
6) Memorial Park Restroom	CXT Precast Products	Precast concrete restroom structure	96,438.63	96,438.63		96,438.63					\$ 96,438.63
7) Market Demand Study	Buxton	Downtown Retail Market Demand Study	30,000.00	30,000.00		30,000.00					\$ 30,000.00
8) Water Main Replacement	Stephen Doreck Equipment Rentals, Inc.	Replacement of Water Main in East Sierra Madre Blvd.	750,000.00	750,000.00		750,000.00					\$ 750,000.00
9) Parking Lots	Ben's Asphalt, Inc.	Resurfacing of City-Owned Parking Lots	429,225.00	429,225.00		429,225.00					\$ 429,225.00
10) County Administration Cost	LA COUNTY	LA County Administration Cost for Processing Property Tax	50,000.00	50,000.00					30,000.00		\$ 30,000.00
11) Cost Allocations for Internal Services	City of Sierra Madre	Cost Allocations for Internal Services	271,459.00	271,459.00			67,865.00		67,865.00		\$ 135,730.00
12) Property Tax Audit	HdL	Property Tax Audit and AB 1389 calculation	5,000.00	5,000.00			2,500.00		1,000.00		\$ 3,500.00
13) Financial Statement Audit	Beraneck, Chan, Associates	Annual Audit 2010-2011	15,000.00	15,000.00			7,500.00		7,500.00		\$ 15,000.00
14) Business Improvement Loans	City of Sierra Madre	façade improvement grant	150,000.00	30,000.00		10,000.00		10,000.00			\$ 20,000.00
15) Water/Sewer	City of Sierra Madre	watering of downtown bow outs	47,500.00	9,500.00	790.00	790.00	790.00	790.00	790.00		\$ 3,950.00
16) Electricity	Southern California Edison	Downtown Street Lightening and Memorial Park Lightening	210,000.00	42,000.00	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00		\$ 17,500.00
17) Workforce Housing	Heritage Housing Partners	exclusive negotiation agreement for Moderate Income Housing	240,000.00	240,000.00							\$ -
18) Staffing Costs	City of Sierra Madre	2.25 FTE staff and management hours and related training	1,900,000.00	377,000.00	31,416.00	31,416.00	31,416.00	31,416.00	31,416.00		\$ 157,080.00
19) pressure washing	Athens	pressure washing of downtown sidewalks	300,000.00	60,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00		\$ 25,000.00
20) grounds maintenance	Merchants Landscaping	landscaping of City parks, facilities, bow outs in project area	240,000.00	40,000.00	3,333.00	3,333.00	3,333.00	3,333.00	3,333.00		\$ 16,665.00
21) PFF Subsidy	City of Sierra Madre	set aside for project area business	224,000.00	0.00							\$ -
22)											\$ -
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Totals - This Page			\$ 8,937,587.47	\$ 3,290,212.47	\$ 44,039.00	\$ 1,753,667.47	\$ 572,529.00	\$ 54,039.00	\$ 150,404.00		\$ 2,574,678.47
Totals - Page 2			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
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Totals - Other Obligations			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Grand total - All Pages			\$ 8,937,587.47	\$ 3,290,212.47	\$ 44,039.00	\$ 1,753,667.47	\$ 572,529.00	\$ 54,039.00	\$ 150,404.00		\$ 2,574,678.47

\* 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.