Meeting Date: 1/24/12

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 3B

Santa Clara RDA

Date: January 19, 2012

To: Executive Director for Redevelopment Agency Action

From: Redevelopment Agency Treasurer

Subject: Adoption of a Resolution Approving and Adopting an Amended Enforceable Obligation Payment Schedule Pursuant to Part 1.8 of the Redevelopment Law

EXECUTIVE SUMMARY:

Between June 28 and June 30, 2011, the Governor approved the State Budget for fiscal year 2011-12, and signed a number of implementing trailer bills, including AB x1 26 (the "Dissolution Act") and AB x1 27 (the "Voluntary Program Act").

These trailer bills significantly modify the California Community Redevelopment Law ("CRL") and fundamentally alter the future of California redevelopment: AB x1 26 (the "Dissolution Act") and AB x1 27 (the "Voluntary Program Act") (together, the "Redevelopment Restructuring Acts"). The Dissolution Act first immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolved redevelopment agencies, effective October 1, 2011. The Voluntary Program Act then allowed redevelopment agencies to avoid dissolution under the Dissolution Act by opting in to an "alternative voluntary redevelopment program" (the "Voluntary Program") that requires annual contributions to local schools and special districts.

The California Redevelopment Association ("CRA") and the League of California Cities ("League") filed a petition with the California Supreme Court challenging the constitutionality of both the Dissolution Act and the Voluntary Program Act and requesting a stay delaying enforcement of certain provisions of these two acts while the lawsuit is pending. The Supreme Court agreed to take the case and established an expedited briefing schedule in order to reach a decision on the lawsuit before any payments are due in January 2012. The Court also issued a partial stay regarding suspension of the effectiveness of AB x1 26 and 27.

On December 29, 2011, the California Supreme Court ruled that AB x1 26 (the "Dissolution Act") was largely constitutional and that AB x1 27 (the "Voluntary Program Act") was unconstitutional. The Court delayed the effective date of the Dissolution Act until February 1, 2012. The Court's bifurcated decision means that all California redevelopment agencies, including the Redevelopment Agency of the City of Santa Clara (the "Redevelopment Agency"), will be dissolved under the constitutional Dissolution Act, and none will have the opportunity to opt into continued existence under the unconstitutional Voluntary Program Act.

The Court's ruling requires that redevelopment agencies be dissolved on February 1, 2012. Without legislative action to postpone this deadline, the dissolution process will begin and it will be very difficult to reconstitute redevelopment. Senate Bill 659 (Padilla) has been introduced to temporarily postpone the dissolution deadline until April 15, 2012.

After dissolution of the Agency, the Successor Agency can continue to make payments on and perform obligations required under its "Enforceable Obligations" which include:

- Bonds;
- Loans borrowed by a RDA;
- Payments required by federal or state government or for employee pension obligations;
- Judgments or settlements;
- "Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy"; and
- Contracts for administration or operation of the RDA.

The Dissolution Act requires each RDA to prepare an Enforceable Obligation Payment Schedule ("EOPS") setting forth specific information about the RDA's Enforceable Obligations. This EOPS is required to be:

- Adopted at a public meeting;
- Posted on the RDA's or its sponsoring community's website; and
- Transmitted by mail or electronic means to the County Auditor-Controller, the State Controller, and the State Department of Finance by August 28, 2011 along with contact information of an official designated to provide information and documentation for items listed on the EOPS.

Staff prepared and the City Council adopted an EOPS on August 16, 2011. Staff complied with all posting and transmittal requirements in a timely manner.

Staff have recently completed the annual filing of the Statement of Indebtedness for the Redevelopment Agency and now need to amend the EOPS to match the numbers on this report. In addition, the EOPS was required to itemize monthly payments through December 2011. With the stay and subsequent Supreme Court Ruling, it is now prudent to extend the monthly payment schedule through the end of the fiscal year.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

Passage of the Amended EOPS will allow the Agency to continue to pay all of its enforceable obligations.

There are no disadvantages of this issue.

ECONOMIC/FISCAL IMPACT:

Adoption of the Amended Enforceable Obligation Payment Schedule will allow the Agency to continue operations. Without approval of the Amended EOPS, it is unclear whether monthly payments beyond December would be recognized as enforceable by the County of Santa Clara.

RECOMMENDATION:

That the Agency adopt a resolution approving and adopting the Amended Enforceable Obligation Payment Schedule pursuant to Part 1.8 of the Redevelopment Law.

Gary Ameling
Redevelopment Agency Treasurer

APPROVED:

Jennifer Sparacino
Executive Director for Redevelopment Agency

Documents Related to this Report:
1) ***Resolution***
2) ***Amended Enforceable Obligation Payment Schedule***