

**City of Culver City, California
Agenda Item Report**

Meeting Date: 09/26/2011		Item Number: <u>JC-1</u>	
JOINT CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD AGENDA ITEM:			
(1) Agency Board Adoption of the Preliminary Draft Recognized Obligation Payment Schedule for the Period January 1, 2012 through June 30, 2012, Pursuant to Section 34169(h) of the Health and Safety Code, (1) Agency Board Authorization to the Executive Director to Make Such Payments on Behalf of the Agency Utilizing Available Agency Revenues, Including, but not Limited to, Newly Received Tax Increment Proceeds; and, (3) City Council Authorization to the City Manager and Chief Financial Officer to Make Such Payments on Behalf of the Agency Utilizing Former Agency Assets in the Case Sufficient Agency Revenues are Unavailable .			
Contact Person/Dept.:		Phone Number:	
Sol Blumenfeld/Community Development		(310) 253-5760	
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Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Meetings and Agendas – City Council (09/21/2011); (E-Mail) Meetings and Agendas – Redevelopment Agency (09/21/11)			
Department Approval: Sol Blumenfeld (09/15/11)		City Attorney Approval: Carol Schwab (by H. Baker) (09/19/11) Agency General Counsel Approval: Murray Kane (09/14/11)	
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (09/20/11)		City Manager Approval: John Nachbar (09/20/11)	
<u>RECOMMENDATION:</u> Staff recommends the Agency Board (1) adopt the Preliminary Draft Recognized Obligation Payment Schedule (ROPS) for the period January 1, 2012 through June 30, 2012, as required under Section 34169(h) of the Health and Safety Code; and (2) authorize the Executive Director to make such payments on behalf of the Agency utilizing available Agency revenues, including, but not limited to, newly received tax increment proceeds, AND Staff recommends the City Council authorize the City Manager and Chief Financial Officer to make such payments on behalf of the Agency utilizing former Agency assets in the case sufficient Agency revenues are unavailable.			

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BACKGROUND:

In June, 2011 the State Legislature passed ABx1 26 (Dissolution Bill) and ABx1 27 (Continuation Bill) as part of the state budget approval process. ABx1 26 purports to dissolve redevelopment agencies throughout the State as of October 1st. The assets of the dissolved redevelopment agencies would be transferred to each agency's successor entity. The successor entities will administer the shutdown of the redevelopment agencies and will be overseen by oversight boards that are not related to the governing body.

ABx1 27 provides an opportunity for redevelopment agencies to avoid dissolution if the community that created the redevelopment agency enacts a Continuation Ordinance committing to make certain payments to the State called Voluntary Alternate Redevelopment Agency Payments (VARP). On July 25, 2011, the City Council enacted the Continuation Ordinance in accordance with ABx1 27.

The California Redevelopment Association (CRA), et.al. filed a Petition for Writ of Mandate in the California Supreme Court on July 18, 2011, requesting (1) a declaration that AB x1 26 and AB x1 27 are unconstitutional and (2) a stay of enforcement of AB x1 26 and AB x1 27 during the pendency of the litigation (Litigation). Pursuant to the Petition, a partial stay was issued in the case by the California Supreme Court on August 11, 2011 and later modified by the Court on August 17, 2011.

The Court's partial stay leaves intact the requirement that redevelopment agencies adopt a Preliminary Draft ROPS on or before September 30, 2011. Agency General Counsel recommends the Agency Board adopt a Preliminary Draft ROPS for the period January 1, 2012 through June 30, 2012 to ensure that the Agency has the authority to continue to make payments on existing obligations until the Litigation is settled.

On August 22, 2011, pursuant to AB 1x 26, the Agency Board and City Council adopted a similar required document, known as the Enforceable Obligation Payment Schedule (EOPS). The Preliminary Draft ROPS is a separate requirement from the EOPS and must also be adopted.

DISCUSSION:

It is the City's and the Agency's position that Assembly Bills x1 26 and 27 (collectively the RDA Bills), including but not limited to the effectiveness date, violate the State Constitution and other laws, and that the RDA Bills are invalid and unenforceable in whole or in part.

The City's actions in compliance with the RDA Bills (including without limitation the City's preparation and filing of the Preliminary Draft ROPS) shall not be deemed to

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be, and are not intended as, an acknowledgment of the validity of the RDA Bills. The City reserves all rights of the City and the Redevelopment Agency to challenge the validity of any or all provisions of the RDA Bills in any administrative or judicial proceeding. By adopting and filing the Preliminary Draft ROPS, the City and the Redevelopment Agency do not waive any of their legal rights concerning or arising out of the RDA Bills and/or the Litigation.

Attachment No. 1 is presented for consideration and action by the Agency Board and City Council as the Draft Preliminary ROPS to establish which payments can be made by the Agency under the RDS Bills for the specified period. Agency General Counsel recommends that the list of obligations include, without limitation, inter-agency agreements, cooperation agreements and the remittance agreement under AB x1 27 and the like, to the extent payments will be due during the period of January 1, 2012 through June 30, 2012, and that the following information be identified for each payment:

- The Project name associated with the obligation;
- The payee;
- A short description of the nature of the work, product, service, facility, or other thing of value for which the payment is to be made; and
- The amount of payments obligated to be made, by month.

The RDA Bills require that all obligations be listed with specific payment schedules. However, some obligations to implement agreements that are considered recognized obligations have yet to be established. For example, a contract for construction has not been issued for aspects of the Hayden Tract Spur project, but the MOU with the Spur owners requires the Agency to take these steps. Therefore, the payment schedule will list budgeted amounts that are obligated under the MOU (or other enforceable contracts).

The adoption of the Preliminary Draft ROPS for the specified period allows the Agency to continue to pay bills for projects and activities that are allowed to be continued under the Dissolution Bill (ABx1 26). While the Continuation Legislation that would allow the Agency to continue by paying the Agency's VARP amount (\$12,044,227) has been stayed by the California Supreme Court, this action establishes the obligations that will allow the Agency/City to continue to proceed with existing projects.

Section 34169(i) (which is not subject to the Stay) provides that the State Department of Finance may review a redevelopment agency's action taken in connection with the Preliminary Draft ROPS pursuant to Section 34169(h) and that any such action shall not be effective for three (3) business days pending a request for review. Section 34169(i) provides that the State of California Department of Finance (DOF) has the authority to review the Preliminary Draft ROPS and return it to the redevelopment agency for reconsideration and modification, at which point thereafter the Preliminary Draft ROPS shall not be effective until approved by the

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DOF. In this regard, Section 34169(i) obligates each redevelopment agency to designate an official to whom the DOF may submit its requests for review and to provide the telephone number and email contact information of such designated official. In light of the above, and in order to establish the time period for review and approval, it is recommended that the Preliminary Draft ROPS be transmitted via E-mail and in hard copy via US Mail to the DOF with a copy to the State Controller's Office and the Los Angeles County Auditor/Controller immediately after adoption. It is also recommended that the Chief Financial Officer be the designated official to receive inquiries from the DOF.

FISCAL ANALYSIS:

Funding for all agreements, contracts and projects included in the Preliminary Draft ROPS is included in either the Agency Board Adopted Budget or the City Council Adopted Budget for Fiscal Year 2011/2012. No City funds are being obligated except the "former Agency assets" now held in the City's accounts.

ATTACHMENTS:

Proposed Preliminary Draft Recognized Obligation Payment Schedule for the period January 1, 2012 through June 30, 2012

MOTION:

That the Agency Board:

1. Adopt the Preliminary Draft Recognized Obligation Payment Schedule; and
2. Authorize the Executive Director to file the Schedule with the State of California Department of Finance with a copy to the State Controller's Office and the Los Angeles County Auditor/Controller; and,
3. Designate the Chief Financial Officer as the liaison to the State of California Department of Finance; and,
4. Authorize the Executive Director to make such payments on behalf of the Agency utilizing available Agency revenues, including, but not limited to, newly received tax increment proceeds.

AND

That the City Council:

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Authorize the City Manager and Chief Financial Officer to make such payments on behalf of the Agency utilizing former Agency assets in the case that sufficient Agency revenues are unavailable.