

# *City of Brisbane Redevelopment Agency*

## *Agenda Report*

To: City Council via City Manager

From: Administrative Services Director

Subject: Adoption of Resolution RA 2011-02 for the approval of Enforceable Obligations for the Redevelopment Agency

Date: August 22, 2011

### **Purpose:**

Abide by AB 1X 26 and publicly approve the Redevelopment Agency's Enforceable Obligations through the end of December 2011

### **Recommendation:**

Adopt Resolution RA 2011-02 which directs staff to post the enforceable obligations on the City website, designate an Agency representative to whom all questions related to the Enforceable Obligation Payment Schedule can be directed, notify the County Auditor-Controller, the Department of Finance, and the State Controller of the Agency action to adopt the Enforceable Obligation Payment Schedule, and to take other actions needed to effectuate the intent of the Resolution

### **Background:**

On Thursday August 11, 2011 the Supreme Court issued a stay relating to the State's AB 1X 26 and AB 1X 27. However, Health and Safety Code Section 34167(h), which was not stayed by the court order, provides that after sixty days after the effectiveness of AB 1X 26, an agency cannot make a payment on any enforceable obligation unless it is listed on an Enforcement Obligations Payment Schedule.

### **Discussion:**

Even though the Agency and the City Adopted the necessary ordinances to continue the agency under AB 1X 26 and AB 1X 27 our Redevelopment Legal Council recommends we now adopt an Enforceable Obligation Payment Schedule. The schedule must include the project name associated with the obligation, the payee, a description of the nature of the work, product, or service, and the month the payment will be made through December 2011.

The schedule must be adopted at a public meeting and then posted on the City's or Agency's website. The Agency must also notify the County Auditor-Controller, Department of Finance, and State Controller.

**Fiscal Impact:**

These are existing obligations of the Redevelopment Agency and therefore there is not further impact on the Agency.


**Measure of Success**

The Agency complies with AB 1X 26.

**Attachments:**

Resolution RA 2011-02  
Enforceable Obligation Payment Schedule

  
\_\_\_\_\_  
Administrative Services Director

  
\_\_\_\_\_  
City Manager

RESOLUTION NO. RA 2011-02

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY  
OF BRISBANE APPROVING AND ADOPTING THE ENFORCEABLE  
OBLIGATION PAYMENT SCHEDULE PURSUANT TO  
PART 1.8 OF THE REDEVELOPMENT LAW

WHEREAS, the City Council of the City of Brisbane ("City Council") adopted the Redevelopment Plan for the Brisbane Community Redevelopment Project Area Number One by Ordinance No. 219, adopted on December 6, 1976, as amended by Ordinance No. 396, adopted on January 9, 1995, as amended by Ordinance No. 442, adopted on November 8, 1999, as amended by Ordinance No. 465, adopted on March 25, 2002, as amended by Ordinance No. 464, adopted on May 13, 2002, as amended by Ordinance No. 491, adopted on July 19, 2004, and as further amended by Ordinance No. 510, adopted on April 17, 2006, establishing the Brisbane Community Redevelopment Project Area Number One ("Redevelopment Plan One"); and

WHEREAS, the City Council also adopted the Redevelopment Plan for the Brisbane Community Redevelopment Project Area Number Two by Ordinance No. 284, adopted on June 14, 1982, as amended by Ordinance No. 342, adopted on October 12, 1988, as amended by Ordinance No. 397, adopted on January 9, 1995, as amended by Ordinance No. 442, adopted on November 8, 1999, as amended by Ordinance No. 471, adopted on July 22, 2002, as amended by Ordinance No. 472, adopted on July 22, 2002, as amended by Ordinance No. 492, adopted on July 19, 2004, and as further amended by Ordinance No. 511, adopted on April 17, 2006, establishing the Brisbane Community Redevelopment Project Area Number Two ("Redevelopment Plan Two ") (collectively, Redevelopment Plan One and Redevelopment Plan Two shall be referred to as "Redevelopment Plans"); and

WHEREAS, the Redevelopment Agency of the City of Brisbane (the "Agency") is responsible for implementing the Redevelopment Plans pursuant to the Redevelopment Law; and

WHEREAS, AB x1 26 (the "Dissolution Act") and AB x1 27 (the "Voluntary Program Act," and together with the Dissolution Act, the "Redevelopment Restructuring Acts") have been enacted to significantly modify the Redevelopment Law; and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts (the "Stay"); and

WHEREAS, under the terms of the Stay and pursuant to Section 34167(h) of the Redevelopment Law, after August 29, 2011, the Agency can only make payments on bond obligations until the Agency adopts an enforceable obligation payment schedule listing all of the obligations that are enforceable within the meaning of Section 34167(d) of the Redevelopment Law (the "Enforceable Obligation Payment Schedule"); and

WHEREAS, as further set forth in the staff report accompanying this Resolution (the "Staff Report"), under the terms of various Agency contracts and obligations, the Agency is required to make payments on its enforceable obligations after August 29, 2011; and

WHEREAS, to avoid defaulting under its enforceable obligations, the Agency has prepared and desires to adopt an Enforceable Obligation Payment Schedule, under protest and reserving the Agency's rights to recognize and perform any and all obligations listed therein without regard to the provisions of the Redevelopment Restructuring Acts

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of this Enforceable Obligation Payment Schedule 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 an existing governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program, because it merely lists enforceable obligations previously entered into and approved by the Agency; and

WHEREAS, the Agency Board has reviewed and duly considered the Staff Report, the proposed Enforceable Obligation Payment Schedule, and documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Agency Board finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the Agency Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project. The Agency Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of San Mateo in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the Agency Board hereby approves and adopts the Enforceable Obligation Payment Schedule under protest and with a reservation of its rights to perform any and all obligations listed therein without regard to the provisions of the Redevelopment Restructuring Acts and to challenge any contrary determination by the State of California, the County Auditor-Controller or any other body under the provisions of the Redevelopment Restructuring Acts.

BE IT FURTHER RESOLVED, that the Agency Board authorizes and directs the Agency's Executive Director or the Executive Director's designee to: (1) post the Enforceable Obligation Payment Schedule on the Agency or the City's websites, (2) designate an Agency representative to whom all questions related to the Enforceable Obligation Payment Schedule can be directed, (3) notify, by mail or electronic means, the County Auditor-Controller, the Department of Finance, and the State Controller of the Agency's action to adopt the 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 take such other actions and execute such other documents as are appropriate to effectuate the

intent of this Resolution and to implement the Enforceable Obligation Payment Schedule on behalf of the Agency.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

The above and foregoing resolution was duly and regularly passed and adopted at a meeting by the Agency Board on the \_\_\_\_ day of August, 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a true and correct copy of the original Resolution on file in the office of the Agency Secretary of the Redevelopment Agency of the City of Brisbane.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Redevelopment Agency of City of Brisbane \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Sheri Spediacci, Agency Secretary

Approved:

\_\_\_\_\_  
Cyril "Cy" G. Bologoff, Agency Chairperson

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					Total
					Aug**	Sept	Oct	Nov	Dec	
1) 2001 Tax Allocation Bond	Brisbane Financing Authority	Non-housing projects	28,990,600.00	1,934,800.00				789,900.00		\$ 789,900.00
2) 2005 Lease Revenue Bond	Brisbane Financing Authority	Non-housing projects	1,479,822.30	216,057.00			23,041.43			\$ 23,041.43
3) 1998 Tax Allocation Bond	Bank of New York	Housing projects	1,964,633.75	115,428.75		80,838.75				\$ 80,838.75
4) Employee Costs	City of Brisbane	Payroll and Benefits for employees	500,188.00	500,188.00		41,682.33	41,682.33	41,682.33	41,682.33	\$ 166,729.32
5) Purchase land for low/mod housing	Old Republic Title Insurance Company	Housing projects	1,900,000.00	1,900,000.00		1,900,000.00				\$ 1,900,000.00
6) College District	Goldfarb and Lipman	Attorney Fees		200,000.00	7,500.00	20,000.00	25,000.00	25,000.00	25,000.00	\$ 102,500.00
7) General County Tax	San Mateo County	pass-through payments under H&S Code section 33607.7		55,382.90						\$ -
8) Free Library	San Mateo County	pass-through payments under H&S Code section 33607.7		8,073.29						\$ -
9) Bayshore Elementary General Purpose	Bayshore Elementary School District	pass-through payments under H&S Code section 33607.7		13,474.77						\$ -
10) Brisbane Elementary General Purpose	Brisbane Elementary School District	pass-through payments under H&S Code section 33607.7		43,060.04						\$ -
11) Jefferson High General Purpose	Jefferson Union High School District	pass-through payments under H&S Code section 33607.7		67,529.02						\$ -
12) St. Jr. College General Purpose	San Mateo Junior College District	pass-through payments under H&S Code section 33607.7		18,694.28						\$ -
13) Bayshore Sanitary District	Bayshore Sanitary District	pass-through payments under H&S Code section 33607.7		2,139.62						\$ -
14) Bay Area Air Quality Management	Bay Area Air Quality Management	pass-through payments under H&S Code section 33607.7		576.53						\$ -
15) County Harbour District	San Mateo County Harbour District	pass-through payments under H&S Code section 33607.7		972.60						\$ -
16) County Education Tax	San Mateo County	pass-through payments under H&S Code section 33607.7		9,737.02						\$ -
Totals - This Page			\$ 34,835,244.05	\$ 5,086,113.82	\$ 7,500.00	\$ 2,042,521.08	\$ 89,723.76	\$ 856,582.33	\$ 66,882.33	\$ 3,063,009.50
Totals - Other Obligations			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand total - All Pages			\$ 34,835,244.05	\$ 5,086,113.82	\$ 7,500.00	\$ 2,042,521.08	\$ 89,723.76	\$ 856,582.33	\$ 66,882.33	\$ 3,063,009.50

\* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. 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.