

RESOLUTION NO. FRA 2012-002

**A RESOLUTION OF THE FONTANA REDEVELOPMENT AGENCY
APPROVING AND ADOPTING AN AMENDED ENFORCEABLE
OBLIGATION PAYMENT SCHEDULE PURSUANT TO AB 1X 26.**

WHEREAS, the City of Fontana ("City") currently has five effective redevelopment projects: (1) Downtown (Ordinance No. 537, December 16, 1975); (2) Jurupa Hills (Ordinance No. 706, October 6, 1981); (3) North Fontana (Ordinance No. 739, December 7, 1982); (4) Sierra Commercial Corridor (Ordinance No. 1055, June 16, 1992); and (5) Southwest Industrial Park (Ordinance No. 567, July 19, 1977; amended and restated by Ordinance No. 1619, June 23, 2010) (collectively and as amended, the "Project Areas"); and

WHEREAS, the Fontana Redevelopment Agency ("Agency") has been engaged in activities to redevelop the Project Areas pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code Sections 33000, et seq.); and

WHEREAS, on June 28, 2011, as part of the 2011-2012 State of California budget bill, companion bills Assembly Bill 1X 26 ("AB 1X 26") and Assembly Bill 1X 27 ("AB 1X 27") were enacted, suspending all new redevelopment activity of the Agency and dissolving the Agency, unless the City elected to participate in the "Alternative Voluntary Redevelopment Program" established by AB 1X 27 and paid an annual "community remittance" payment to the County of San Bernardino; and

WHEREAS, on July 18, 2011, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. 5194861 ("Legal Action"), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement of AB 1X 26 and AB 1X 27, pending the Supreme Court's determination of the legality of AB 1X 26 and AB 1X 27; and

WHEREAS, on August 11, 2011, the Supreme Court issued an order in the Legal Action granting a partial stay of AB 1X 26, exclusive of Health and Safety Code Sections 34161 through 34169.5 (suspending new redevelopment activity), and a complete stay of AB 1X 27, such that the City and the Agency could not pursue new redevelopment activity under the Alternative Voluntary Redevelopment Program (collectively, "Stay"); and

WHEREAS, the Supreme Court modified the Stay on August 17, 2011, such that the Stay no longer affects Health and Safety Code Sections 34167.5 through 34169.5, in addition to California Health and Safety Code Sections 34161 through 34167, or California Health and Safety Code Sections 34194(b)(2); and

WHEREAS, the Stay no longer affected Health and Safety Code Section 34169 requiring the Agency, among other things, to adopt an Enforceable Obligation Payment Schedule ("EOPS") within 60 days after the effective date of AB 1X 26 (August 27, 2011); and

WHEREAS, the Stay also did not affect Health and Safety Code Section 34167(h) providing that 60 days after the effective date of AB 1X 26 (August 27, 2011) the Agency shall not pay any obligation not set forth in an adopted EOPS; and

WHEREAS, because the Agency would have been limited to only making payments on obligations listed in an adopted EOPS after August 27, 2011, the Agency adopted an EOPS by Resolution No. FRA 2011-006 on August 23, 2011; and

WHEREAS, on December 29, 2011, the Supreme Court issued its opinion in the Legal Action, upholding AB 1X 26, invalidating AB 1X 27, extending certain statutory deadlines under Health and Safety Code Sections 34170 through 34191, and dissolving all redevelopment agencies throughout the State, effective February 1, 2012; and

WHEREAS, Health and Safety Code Section 34177(l)(3) provides that the successor agency to the Agency, after the Agency's dissolution, is to adopt a Recognized Obligation Payment Schedule ("ROPS") succeeding the EOPS, prior to January 1, 2012; and

WHEREAS, the California Supreme Court, in the Legal Action, extended the deadline for adoption of the ROPS to May 1, 2012; and

WHEREAS, Health and Safety Code Section 34177(a)(1) requires that until a ROPS becomes operative, only payments required pursuant to an EOPS shall be made; and

WHEREAS, the original EOPS was only required to list Agency obligations through December 31, 2011; and

WHEREAS, because the previously adopted EOPS is operative only through December 31, 2011, and the statutory deadline for adoption of a ROPS has been extended from January 1, 2012 to May 1, 2012, the previously adopted EOPS needs to be amended to be operative through April 30, 2012, so that the Agency and the City of Fontana, as successor agency to the Agency, may continue to meet the Agency's enforceable obligations, all as required by Health and Safety Code Section 34169, during the time period from January 1, 2012 through April 30, 2012; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE FONTANA REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. The amendment of the EOPS through this Resolution does not commit the Agency to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The Agency Secretary is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of Amended EOPS. The Agency hereby approves and adopts the amended EOPS, in substantially the form attached to this Resolution as Exhibit A, so that the Agency and the City of Fontana, as successor agency to the Agency, may continue to meet the Agency's enforceable obligations, all as required by Health and Safety Code Section 34169, during the time period from January 1, 2012 through April 30, 2012. The Agency has been required to act quickly in preparing and adopting the amended EOPS because of the timing of issuance of the Supreme Court's opinion in the Legal Action. As a result, the Agency reserves the right to further amend the EOPS in the future to make the EOPS more accurate.

Section 4. Posting; Transmittal to Appropriate Agencies. The Executive Director is hereby authorized and directed to post a copy of the EOPS on the City's website. The Executive Director is further authorized and directed to transmit notice, by mail or electronic means, to the San Bernardino County Auditor-Controller, the State Controller and the State Department of Finance, providing the website location of the posted EOPS and other information as required by AB 1X 26 regarding the Agency's adoption of the amended EOPS.

Section 5. Effectiveness. Agency approval of the amended EOPS pursuant to this Resolution shall not be effective for three (3) business days following the date of adoption of this Resolution, in accordance with Health and Safety Code Section 34169.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Fontana Redevelopment Agency, on the 24th day of January, 2012, by the following vote:

READ AND APPROVED AS TO LEGAL FORM:


Agency Attorney

Resolution No. FRA 2012-002

I, Toni Lewis, Agency Secretary of the City of Fontana, and Ex-Officio Clerk of the Redevelopment Agency, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the Redevelopment Agency at a regular meeting on the 24th day of January, 2012 by the following vote to wit:

AYES: Chair Slowik and Agency Members Roberts, Tahan, Warren, and Wibert.
NOES: None.
ABSENT: None.
ABSTAIN: None.



Tonia Lewis, Secretary of the
Fontana Redevelopment Agency



Chairperson of the
Fontana Redevelopment Agency

ATTEST:



Tonia Lewis, Secretary of the
Fontana Redevelopment Agency

CITY OF FONTANA
SECRETARY'S CERTIFICATE


STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss.
CITY OF FONTANA)

I, TONIA LEWIS, City Clerk of the City of Fontana, do hereby certify that the foregoing Resolution No. FRA 2012-002 was duly and regularly adopted by the City Council of the City of Fontana at a regular meeting thereof on the 24th day of January, 2012 and that the same was passed and adopted by the following vote, to wit:


AYES: Chair Slowik and Agency Members Roberts, Tahan, Warren, and Wibert.
NOES: None.
ABSENT: None.
ABSTAIN: None.



Tonia Lewis, City Clerk



Matthew Slowik
Chair
City of Fontana

ATTEST:


Tonia Lewis
City Clerk
City of Fontana

EXHIBIT A

AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

[Attached behind this page]