

**Payment Plan for the Accrued Liability for the 2010 Amended Disposition
Development and Owner Participation Agreement
for the Town Center Development**

BACKGROUND

As part of the Amended Disposition Development and Owner Participation Agreement (ADDOPA) with the Town Center developer, the Redevelopment Agency agreed to share with the developer up to \$4.5 million per year of Tax Increment generated by the project plus 50% of any receipts above this amount, in return for construction and maintenance of public streets and structured parking. The Annual Payment shall be made in two installments. The first installment shall be made on or before February 1st and the second installment shall be made on or before June 30th. The term of the agreement starts in FY 2003/2004 and runs through FY 2025/2026.

The Annual Payment is triggered upon the completion of the Minimum Project (150,000 square feet of retail space and completion of the Redwood Square). The liability accrued from FY 2003/2004 through the fiscal year in which the Minimum Project is reach is also due in the same fiscal year that the Annual Payment is required. However, there is also one exception that would require the accrued liability payment without triggering the Annual Payment. If the proposed theater building is completed prior to completion of the Minimum Project, the accrued liability is due immediately.

DISCUSSION

It is anticipated that the development milestone will be reached in mid 2013. At that time, the total existing accrued liability will be \$8.6 million. This consists of \$6.5 million accrued from FY 2003/2004 to FY 2011/2012 and \$2.1 million for the FY 2012/2013 annual payment.

Two options are available in order to ensure that there are enough funds to make the required payment to the Town Center Developer when due:

1. Set up and maintain a reserve; or
2. Pursue a loan and repayment agreement.

Reserve

The existing ADDOPA accrued liability of \$6.5 million through FY 2011/2012 together with the projected annual payment for FY 2012/2013 can be programmed to be set aside and maintained as a cash reserve. This can be accomplished by using all of the remaining property tax trust funds after payment of the other recognized obligations and administrative expenditures over the next three Recognized Obligation Payment Schedules (ROPS). The following table outlines a payment schedule needed over the next three ROPS in order to have enough funds prior to the first Annual Payment being required:

ADDOPA Accrued Liability Payment Schedule

ROPS	Fund Distribution Date	Accrued Liability	Annual Payment	Total
July – Dec. 2012	June 2012	\$2,000,000		\$2,000,000
Jan. – June 2013	January 2013	\$2,000,000	\$2,078,231	\$4,078,231
July – Dec. 2013	June 2013	\$2,508,319		\$2,508,319
Total		\$6,508,319	\$2,078,231	\$8,587,633

Loan

A loan and repayment agreement can be pursued in order to have the required funds available when the development triggers the requirement for payment. As part of the ADDOPA, an existing repayment agreement is in place between the City and the Agency to allow for the repayment of any funds fronted by the City at an interest rate of 8% per year.

An alternative could include reentering into this repayment agreement with the City or entering into a new loan and repayment agreement with the County of Santa Clara.

RECOMMENDATION

Staff recommends that the Sunnyvale Oversight Board fund a reserve from the property tax trust fund allocations to be used to make the accrued liability payment when required.

Funding a reserve will allow the Successor Agency to fully utilize all of the property tax funds that are available in each ROPS period and not incur additional costs that would be required through borrowing. Addressing the accrued liability upfront will also smooth out the distribution of funds to taxing agencies in the future.