

JANUARY 10, 2012

LAW ALERT

AMENDING AN AGENCY'S ENFORCEABLE OBLIGATION PAYMENT SCHEDULE TO ASSURE CONTINUED PAYMENT OF ENFORCEABLE OBLIGATIONS

M David Kroot
John T. Nagle
Polly V. Marshall
Lynn Hutchins
Karen M. Tiedemann
Thomas H. Webber
John T. Haygood
Dianne Jackson McLean
Michelle D. Brewer
Jennifer K. Bell
Robert C. Mills
Isabel L. Brown
James T. Diamond, Jr.
Margaret F. Jung
Heather J. Gould
Juliet E. Cox
William F. DiCamillo
Amy DeVaudreuil
Barbara E. Kautz
Erica Williams Orcharton
Luis A. Rodriguez
Xochitl Carrion
Rafael Yaquian
Josh Mukhopadhyay
Vincent L. Brown

Facsimile
510 836-1035
San Francisco
415 788-6336
Los Angeles
213 627-6336
San Diego
619 239-6336
Goldfarb & Lipman LLP

In August 2011, each California redevelopment agency adopted an enforceable obligation payment schedule (the "EOPS") listing all of the agency's enforceable obligations (as defined in Section 34167(d))¹ for payments required to be made by the redevelopment agency through December 31, 2011. As a result of the implementation of AB x1 26 and the associated California Supreme Court decision in the *California Redevelopment Association v. Matosantos* litigation, all California redevelopment agencies will now be dissolved effective February 1, 2012.

A redevelopment agency (before February 1) and its successor agency (starting February 1) can only make payments on enforceable obligations (other than bonded indebtedness) listed on an EOPS until such time as the first recognized obligation payment schedule (the "ROPS") has been prepared by the successor agency, certified² and approved by the successor agency's oversight board to take over the function initially served

by the EOPS.³ The process for preparing, certifying and approving the ROPS may take well into May, thereby potentially leaving a gap between the period initially covered by the EOPS (through December 31, 2011) and the effectiveness of the first ROPS - a gap that could lead to an inability to pay, and the resulting default under, various enforceable obligations.

To avoid possibly defaulting on enforceable obligations between January and the operative date of the ROPS, each redevelopment agency should seriously consider amending its existing EOPS at a public meeting of the agency prior to February 1, 2012 to accomplish the following:

- Extend the payment schedule for the enforceable obligations required to be paid by the redevelopment agency (during January) and its successor agency (starting in February) for the period from January 1, 2012 through June 30, 2012 (just in case there are delays in the initial ROPS process);

¹ All Section references in this Law Alert refer to the California Health and Safety Code.

² The statute is unclear as to which party must "certify" the ROPS, presumably the auditor (See Section 34177(1)(2)(B)).

³ Goldfarb & Lipman will be sending additional advice on the process of preparing the ROPS soon.

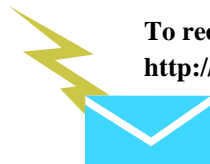
- Add any enforceable obligations of the redevelopment agency that were not previously listed on the EOPS because either: (1) no payments were due prior to December 31, 2011; or (2) the enforceable obligation was inadvertently omitted from the previously adopted EOPS; and
- List line items for staff costs and professional services contracts associated with the operation of the successor agency that are within the administrative cost allowance to which each successor agency will be entitled.

The suggested amendment to the EOPS can be made at any public meeting of the redevelopment agency (prior to February 1) or of the successor agency (starting February 1), and must be followed up with a notice in

accordance with Section 34169(g). The amended EOPS must also be posted on the agency's or its sponsoring community's website.

If you would like to discuss the contents of the amended EOPS, how your redevelopment agency or successor agency should treat any specific obligation or transaction, or the timing and notice procedures associated with amending the EOPS, please contact any attorney at Goldfarb & Lipman.

For more information, please call Jack Nagle, Lynn Hutchins, Karen Tiedemann, Rafael Yaquian, or any other Goldfarb & Lipman attorney at 510-836-6336.



To receive Law Alerts by E-Mail, please visit:
<http://goldfarblipman.com/law-alert-sign-up/>