

ORDINANCE NO. 2957-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ENACTED PURSUANT TO HEALTH AND SAFETY CODE SECTION 34193 TO ELECT AND IMPLEMENT PARTICIPATION BY THE CITY OF SUNNYVALE AND THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE IN THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF THE CALIFORNIA COMMUNITY REDEVELOPMENT LAW

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. RECITALS AND BACKGROUND INFORMATION.

a. Pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Sunnyvale (the "City") adopted Resolution No. 2600 on November 19, 1957 declaring the need for the Redevelopment Agency of the City of Sunnyvale (the "Agency") to function in the City.

b. Also in accordance with the Redevelopment Law, the City Council adopted Ordinance No. 1796-75 on November 26, 1975 adopting the Redevelopment Plan (the "Redevelopment Plan") for the Central Core Redevelopment Project Area (the "Project Area"), as amended from time to time. The Redevelopment Plan set forth the plan for redevelopment of the Project Area; and

c. ABx1 26 (the "Dissolution Act") and ABx1 27 (the "Voluntary Program Act"; and together with the Dissolution Act, the "Redevelopment Restructuring Acts") have been enacted to significantly modify the Redevelopment Law generally as follows:

1. The Dissolution Act first immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011; and

2. The Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law (the "Voluntary Alternative Redevelopment Program"), then allows a redevelopment agency to avoid dissolution under the Dissolution Act by opting into a voluntary alternative redevelopment program requiring specified annual contributions to local school and special districts.

d. Specifically, Section 34193(a) of the Redevelopment Law (as added to the Redevelopment Law by the Voluntary Program Act) authorizes the City Council to enact an ordinance to comply with Part 1.9 of the Redevelopment Law, thereby exempting the Agency from the provisions of the Dissolution Act, and enabling the Agency to continue to exist and function under the Redevelopment Law, so long as the City and the Agency comply with the Voluntary Alternative Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

e. Through the adoption and enactment of this Ordinance, it is the intent of the City Council to enact the ordinance described in Section 34193(a) of the Redevelopment Law and to participate for itself and on behalf of the Agency in the Voluntary Alternative Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

f. Pursuant to Section 34193.2(b) of the Redevelopment Law, the City Council understands that participation in the Voluntary Alternative Redevelopment Program requires remittance of certain payments as set forth in the Voluntary Program Act (as further described below), and also constitutes an agreement on the part of the City, in the event the City fails to make such remittance payments, to assign its rights to any payments owed by the Agency, including, but not limited to, payments from loan agreements, to the State of California.

g. The City Council does not intend, by enactment of this Ordinance, to waive any rights of appeal regarding the amount of any remittance payments established by the California Department of Finance, as provided in the Voluntary Program Act.

h. 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, as modified on August 17, 2011 (the "Stay"), including a stay of the provisions of the Voluntary Program Act.

i. Accordingly, the City Council intends to adopt this Ordinance understanding that it will be effective only upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

SECTION 2. ENACTMENT OF ORDINANCE PURSUANT TO REDEVELOPMENT LAW SECTION 34193(a). To the extent required by law to maintain the existence and powers of the Agency under the Redevelopment Law (including the Redevelopment Restructuring Acts), the City Council hereby enacts the ordinance authorized by Section 34193(a) of the Redevelopment Law, whereby the City, on behalf of itself and the Agency, elects to and will comply with the provisions of Part 1.9 of the Redevelopment Law, including the making of the community remittance payments called for in Section 34194 of the Redevelopment Law (the "Remittance Payments"), and whereby the Agency will no longer be subject to dissolution or the other prohibitions and limitations of Parts 1.8 and 1.85 of the Redevelopment Law as added by the Dissolution Act.

SECTION 3. ADDITIONAL UNDERSTANDINGS AND INTENT. It is the understanding and intent of the City Council that the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2 of the Redevelopment Law, whereby the Agency will transfer annual portions of its tax increment to the City in amounts not to exceed the annual Remittance Payments (the "Agency Transfer Payments") to enable the City, directly or indirectly, to make the annual Remittance Payments. Unless otherwise specified by resolution of the City Council, it is the City Council's intent that the City's annual Remittance Payments shall be made exclusively from the Agency Transfer Payments or from other funds that become available as a result of the City's receipt of the Agency Transfer Payments. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or other assets to make the Remittance Payments, it being understood by the City Council that any

Remittance Payments will be funded solely from the Agency Transfer Payments and/or other assets transferred to the City in accordance with the Voluntary Program Act.

SECTION 4. AUTHORIZATION OF IMPLEMENTING ACTIONS. The City Manager or the City Manager's designee is hereby authorized, on behalf of the City, to take any actions necessary to implement this Ordinance and comply with the Voluntary Program Act, including, without limitation, providing required notices to the County Auditor-Controller, the State Controller, and the Department of Finance, entering into any agreements with the Agency to obtain the Agency Transfer Payments, and making the Remittance Payments.

SECTION 5. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15307, that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment and is a regulatory action as authorized by state law.

SECTION 6. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 7. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption, conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

SECTION 8. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2011, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney