REPORT TO REDEVELOPMENT AGENCY **NO: RDA 11-002**

Agency Meeting: June 28, 2011

SUBJECT: A Resolution Making Findings Related to the Deposit of Funds in the Low and Moderate Income Housing Fund and Adopting a Low and Moderate Income Housing Fund Deficit Reduction Plan for the Central Core Redevelopment Project Area

REPORT IN BRIEF

This report presents the findings of the Redevelopment Agency of the City of Sunnyvale that all available tax increment funds are required to meet existing debt obligations and, therefore, no funds will be deposited in the Agency's Low and Moderate Income Housing fund for FY 2011/2012. In addition, this report presents the updated Low and Moderate Income Housing Fund Deficit Reduction Plan. Staff recommends that the Agency adopt, by Resolution, the findings and the accompanying Deficit Reduction Plan.

BACKGROUND

The Redevelopment Agency of the City of Sunnyvale, established November 19, 1957, adopted a Redevelopment Plan for the Central Core Redevelopment Project Area by Ordinance No. 1796-75 on November 26, 1975.

In 1976, legislation was passed which provided that, in redevelopment project areas established after 1976, 20% of the Tax Increment generated from the project area must be used by the Agency to increase and improve affordable housing for persons of low and moderate income. In 1986, the legislature retroactively applied this basic 20% requirement to project areas established prior to 1977. Starting with the FY 1985/1986, agencies have been required to use 20% of the Tax Increments from project areas established before 1977 to improve and increase the supply of housing for persons of low and moderate income.

Recognizing that retroactive application of this requirement would be difficult or impossible for those agencies which had already committed their future stream of tax increments to existing debt or previously adopted projects, the legislature enacted special provisions that enabled agencies to phase in this requirement. In Sunnyvale's case, annual tax increment was less than annual debt payments; as a result, the Agency has an accruing liability to the General Fund that may be serviced in advance of the housing set aside expenditures. In accord with these provisions, the Redevelopment Agency of the City of

Sunnyvale adopted Resolution No. 195-86, finding that it would need to deposit less than 20% of the taxes allocated into the Low and Moderate Income Housing Fund because of pre-existing indebtedness. In addition, pursuant to Health & Safety Code Section 33334.2, in the years between 1986 and 1993, the Agency was permitted and did find that it was not required to show a Housing Fund deficit because of other substantial affordable housing efforts that the City was making. As a result of those findings, there was no Housing Fund deficit accrued for the years between 1986 and 1993.

EXISTING POLICY

State Law requires findings to be made each year that the 20% set aside is deferred. The Redevelopment Implementation Plan Goal 1 states: Meet the Agency's Existing Financial and Administrative Obligations.

DISCUSSION

The Agency continues to be unable to make any deposits into the Low and Moderate Income Housing Fund because the pre-1986 debt service exceeds the Agency's anticipated tax increment revenue. Specifically, in FY 2011/2012, the Agency will require all of its tax increment revenue (estimated at approximately $9 million) to service both pre-1986 bonds and pre-1986 repayment of debt owed to the City by the Agency. The total amount that is projected to be owed on June 30, 2011 on the pre-1986 bonds and debt is $47.8 million. As a result, the Agency will have no remaining funds available and does not propose to make any deposit into the Housing Fund for FY 2011/2012.

The attached resolution (Attachment B) sets forth the required Agency findings that the difference between the amount proposed to be deposited in the Housing Fund and the amount otherwise required to be deposited in the Housing Fund by Health and Safety Code Section 33334.6 is necessary to make payments under pre-1986 obligations of amounts due or required to be committed, set aside, or reserved by the Agency during FY 2011/2012 and will be used by the Agency for that purpose. The amount that the Agency would otherwise be required to deposit in the Housing Fund will create a deficit in the Housing Fund, which will be repaid at a later date.

The Agency has adopted a plan to repay deficits in the Housing Fund (estimated to be $16.3 million at the end of FY 2011/2012) in subsequent years. Attachment A sets forth the Agency's Housing Fund Deficit Reduction Plan. The Deficit Reduction Plan provides for the Agency to make equal installment payments to repay the Housing Fund deficit, beginning once tax increment revenue exceeds annual debt service on the post-1986 obligations. The amount owed on the post-1986 debt obligation is projected to be $32.6 million on June 30, 2011. When a deficit is created for FY 2011/2012, the

deficit will then be subject to repayment under the Housing Fund Deficit Reduction Plan. The Agency hopes to have sufficient tax increment to eliminate the Housing Fund deficit within the time and other limits of the Redevelopment Plan. If the Agency is unable to eliminate the Housing Fund deficit within those limits, then, as is required pursuant to Health & Safety Code Section 33333.8, the Agency will extend the duration of the Plan and/or the amount of tax increment revenue that can be collected and direct the full amount of tax increment towards eliminating any remaining housing deficit.

Staff anticipates that the Agency will be able to pay off the pre-1986 debt and start allocating the annual 20% set aside funds for affordable housing by FY 2015/2016. The Housing Division has prepared an affordable housing strategy with a 20-year financial plan that anticipates the future set aside funds. In the meantime, the City will continue to undertake an active affordable housing assistance program with Housing Mitigation, HOME grants, and Community Development Block Grant Funds. Additionally the City will continue to utilize its Below Market Rate Program.

FISCAL IMPACT

The proposed action will result in an additional Housing Fund deficit of approximately $1,819,440. This will have no immediate fiscal impact since the repayment of the deficit will occur only after the final maturity of all existing obligations.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Adopt by Resolution, the findings that all tax increment revenues are required to meet current obligations for repayment for the bonded indebtedness of the Agency and pre-existing debt repayment to the City of Sunnyvale and adopt the Housing Fund Deficit Reduction Plan as required by Redevelopment Law of the California Health and Safety Code.

2. Do not adopt the Resolution and the Housing Fund Deficit Reduction Plan.

RECOMMENDATION

Staff recommends that the Agency approve Alternative #1, to adopt by resolution, the findings that all tax increment revenues are required to meet current obligations for repayment of the bonded indebtedness of the Agency and pre-existing debt repayment to the City of Sunnyvale and adopt the Housing Fund Deficit Reduction Plan as required by Redevelopment Law of the California Health and Safety Code. If this action is not taken it would reduce repayment of the outstanding General Fund loan by $1,819,440 and would be considered a violation of the repayment agreement.

Reviewed by:

Grace Leung, Treasurer, Redevelopment Agency
Prepared by: Brice McQueen, Manager, Redevelopment Agency

Approved by:

Gary Luebbers
Executive Director, Redevelopment Agency

Attachments

A. Housing Fund Deficit Reduction Plan
B. Resolution adopting an Agency finding that less than 20% of the Tax Increment is available for housing set aside and adopting a Deficit Reduction Plan

HOUSING FUND DEFICIT REDUCTION PLAN

1. This Housing Fund Deficit Reduction Plan (the "Deficit Reduction Plan") has been adopted by the Redevelopment Agency of the City of Sunnyvale (the "Agency") to set forth a plan for retiring and repaying any deficits incurred by the Agency with respect to the Central Core Redevelopment Project (the "Project") and the deposit required to be made into the Agency's Low and Moderate Income Housing fund (the "Housing Fund") in accordance with the requirements of Health & Safety Code Section 33334.6. All capitalized items used by, but not defined, in this Deficit Reduction Plan shall have the meaning set forth in the Resolution adopting this Deficit Reduction Plan.

2. For each Fiscal Year in which the Agency deposits less than 20% of its Tax Increments into the Housing Fund, it shall list the amount of such deficit.

3. Any deficit incurred by the Agency with respect to the Project in the deposits required to be made into the Housing Fund shall be retired in equal annual installments, without interest, over the period commencing in the Fiscal Year after the final maturity of the Existing Obligations giving rise to such deficit, and ending with the Fiscal Year in which the Redevelopment Plan with respect to the Project is then scheduled to expire. If there is insufficient time for the amount of such deficit to be eliminated as aforesaid prior to the scheduled expiration date of the Redevelopment Plan, the Agency shall take any and all steps within its power necessary or appropriate to extend such expiration date for a period which in its judgement will permit full elimination of such deficit.

4. Installment payments on such deficit shall be made solely from Tax Increments, if any, available after:

   (a) all required payments have been made into any funds or accounts, including the special funds and the accounts therein, now existing or hereafter created, with respect to the payment of the principal of, or interest on any Existing Obligations; and
   (b) the required deposit to the Housing Fund had been made for such Fiscal Year.

5. If for any reason Tax Increments in any Fiscal Year are insufficient to make the payments set forth in Section 4 of this Deficit Reduction Plan and to make all or any part of a required installment payment on such deficit pursuant hereto, such installment payment or the portion thereof not made shall be carried forward, without interest, and shall be made from the Tax Increments first available after the payments set forth in Section 4 of this Deficit Reduction Plan and any required installment payments on such deficit for any Fiscal Year have been made.

6. The Agency hereby determines and declares that any indebtedness of the Agency with respect to the Project created pursuant to Section 33334.6 of the Redevelopment Law as a result of a deficit in the deposits otherwise required to be made into the Housing Fund shall be junior and subordinate to obligations incurred in connection with any Existing Obligations.

7. The Agency hereby reserves the right to prepay at any time all or any portion of a deficit created in the Housing Fund from Tax Increments or other moneys available therefore; provided that the Agency shall have no obligation to do so. Any such pre-payments shall be applied against installments last coming due.

8. This Deficit Reduction Plan set forth herein may hereafter be amended by Resolution of the Agency. Any such Amendment shall be consistent with the provisions of the Redevelopment Law.

Dated: June 28, 2011

HOUSING FUND DEFICIT

FISCAL YEAR	*DEFICIT IN HOUSING FUND DEPOSIT*	*CUMULATIVE DEFICIT*
1993/1994 (actual)	$ 430,765	$ 430,765
1994/1995 (actual)	$ 465,004	$ 895,769
1995/1996 (actual)	$ 467,008	$ 1,362,777
1996/1997 (actual)	$ 458,294	$ 1,821,071
1997/1998 (actual)	$ 386,341	$ 2,207,412
1998/1999 (actual)	$ 428,049	$ 2,635,461
1999/2000 (actual)	$ 472,366	$ 3,107,827
2000/2001 (actual)	$ 476,241	$ 3,584,068
2001/2002 (actual)	$ 540,636	$ 4,124,704
2002/2003 (actual)	$ 536,902	$ 4,661,606
2003/2004 (actual)	$ 830,647*	$ 5,492,253
2004/2005 (actual)	$ 745,954	$ 6,238,207
2005/2006 (actual)	$ 753,784	$ 6,991,991
2006/2007 (actual)	$1,008,185	$ 8,000,176
2007/2008 (actual)	$ 999,077	$ 8,999,253
2008/2009 (actual)	$1,667,960	$10,667,213
2009/2010 (actual)	$1,965,833	$12,633,046
2010/2011 (estimated)	$1,833,339	$14,466,385
2011/2012 (estimated)	$1,819,440	$16,285,825

* includes $42,026 prior period adjustment

RESOLUTION NO. _____ RA

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE MAKING FINDINGS RELATED TO THE DEPOSIT OF FUNDS IN THE LOW AND MODERATE INCOME HOUSING FUND AND ADOPTING A LOW AND MODERATE INCOME HOUSING FUND DEFICIT REDUCTION PLAN

WHEREAS, pursuant to the California Community Redevelopment Law, constituting Sections 33000, *et seq*. of the California Health & Safety Code (the "Redevelopment Law"), the Redevelopment Agency of the City of Sunnyvale (the "Agency") adopted a redevelopment plan for the Central Core Redevelopment Project (the "Project") on November 26, 1975, as amended; and

WHEREAS, pursuant to Section 33334.6 of the Redevelopment Law, the Agency is required to deposit in its low and moderate income housing fund (the "Housing Fund") an amount representing not less than 20% of the taxes allocated to the Agency with respect to the Project pursuant to Section 33670 of the Redevelopment Law (the "Tax Increments"); and

WHEREAS, pursuant to Section 33334.6 of the Redevelopment Law, the Agency may deposit less than the required amount in its Housing Fund in any fiscal year to the extent that the Agency finds that the difference between the amount deposited and the amount required is necessary to make payments under existing obligations (as defined therein) incurred with respect to the Project and contained in a statement of existing obligations adopted prior to September 1, 1986; and

WHEREAS, the Agency approved its statement of existing obligations with respect to the Project by Resolution No. 195-86 adopted on August 26, 1986, and found therein that existing obligations (the "Existing Obligations") specified in such resolution might preclude the deposit of the required amount into the Housing Fund; and

WHEREAS, Section 33334.6 provides that if the Agency deposits less than the required 20% of Tax Increments in any fiscal year in the Housing Fund, the amount equal to the difference between the amount required and the amount deposited that year shall constitute an indebtedness of the Project until paid in full, payable from future Tax Increments; and

WHEREAS, for fiscal year 2011-12, the Existing Obligations of the Agency are such that the Agency will not be able to make any deposit into the Housing Fund and, as a result, the Agency must incur a deficit with respect to its Housing Fund deposits, as more fully set forth in the staff report accompanying and incorporated in this Resolution; and

WHEREAS, Section 33334.6 of the Redevelopment law provides that the Agency shall adopt a plan to eliminate such deficit in subsequent years as determined by the Agency; and

WHEREAS, the Agency has previously adopted a Housing Deficit Reduction Plan dated May 24, 1994, in order to provide for the timely payment of Existing Obligations issued by the Agency with respect to the Project and to eliminate any resulting deficit in the required deposits into the Housing Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE THAT:

1. In fiscal year 2011-12, the Agency will require all of its tax increment revenue (estimated at roughly $9 million) to make payment under Existing Obligations, more specifically for the servicing of bonds issued by the Agency and repayment of debt owed to the City by the Agency as set forth in Resolution No. 195-86. As a result, the Agency does not have any Tax Increments available, and does not propose to make any deposit into the Housing Fund for fiscal year 2011-12. The Agency hereby finds that the difference between the amount proposed to be deposited in the Housing Fund and the amount otherwise required to be deposited in the Housing Fund by Health & Safety Code Section 33334.6(c) is necessary to make payments under Existing Obligations of amounts due or required to be committed, set aside, or reserved by the Agency during fiscal year 2011-12 and will be used by the Agency for that purpose.

2. The amount that would otherwise be deposited to the Housing Fund for fiscal year 2011-12 shall be added to the Housing Fund deficit as set forth in the Housing Fund Deficit Reduction Plan.

Adopted by the Redevelopment Agency of the City of Sunnyvale at a regular meeting held on _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

_____
Clerk, Redevelopment Agency

(SEAL)

APPROVED:

_____
Chair of the Redevelopment Agency
of the City of Sunnyvale

APPROVED AS TO FORM AND LEGALITY:

By_____
David E. Kahn
Redevelopment Agency Counsel