



Council Meeting: January 10, 2012

SUBJECT: Intention of City to Serve as Successor Agency of the Redevelopment Agency of the City of Sunnyvale and Election to Retain the Housing Assets and Functions Performed by the Redevelopment Agency of the City of Sunnyvale

BACKGROUND

As part of the State of California FY 2011/2012 budget adoption, the Governor signed two trailer bills: ABx1 26 (the Dissolution Act) and ABx1 27 (the Voluntary Alternative Redevelopment Program), into law. ABx1 26 immediately suspended RDAs from any new redevelopment activities and from incurring indebtedness. ABx1 27 would allow cities and counties the option to avoid dissolution by adopting an ordinance opting into an "Alternative Voluntary Redevelopment Program" requiring specific, annual contributions to schools and special districts. The legislation became effective on June 29, 2011.

On July 18, 2011, The California Redevelopment Association and the League of California Cities filed a lawsuit in the California Supreme Court challenging the constitutionality of ABx1 26 and ABx1 27, *California Redevelopment Association v. Matosantos*.

On December 29, 2011, the California Supreme Court delivered its decision in the case, finding that ABx1 26 is constitutional and ABx1 27 unconstitutional. The court essentially found that if lawmakers had the ability to create redevelopment agencies, they also have the ability to eliminate them. In ABx1 27, the majority of the court found that the law violated Proposition 22 which limits the ability of the state to take local funds.

The Court's decision means that all California redevelopment agencies, including the Redevelopment Agency of the City of Sunnyvale, will be dissolved under the constitutional Dissolution Act, and no redevelopment agency will have the opportunity to opt into continued existence under the unconstitutional Alternative Redevelopment Program Act.

As a result, the Sunnyvale Redevelopment Agency will be dissolved on February 1, 2012. The Redevelopment Agency's non-housing funds and assets will then be turned over to a successor agency charged with the responsibility of paying off the former Redevelopment Agency's existing debts, disposing of the former

Redevelopment Agency's properties and assets to help pay off debts and winding up the affairs of the former Redevelopment Agency. The Redevelopment Agency's affordable housing assets will be turned over to a successor housing agency to continue performing affordable housing activities.

The Dissolution Act provides that the City of Sunnyvale, as the community that established the Redevelopment Agency, will be the Successor Agency to the former Redevelopment Agency unless the City elects not to serve as the Successor Agency, in which case the first other Taxing Entity making a proper election will be designated as the Successor Agency. If the City elects not to be the Successor Agency, it must adopt a resolution to that effect and notify the County Auditor-Controller by not later than January 13, 2012. Even if it elects to be the Successor Agency, the Agency's special redevelopment counsel recommends that a resolution to that effect and accompanying notice be provided to the County Auditor-Controller in order to have a clear record of the City's intention.

The Dissolution Act also authorizes the City to elect to become the Successor Housing Agency of the former Redevelopment Agency and to retain the housing assets (other than any existing housing fund balance) and affordable housing functions of the former Redevelopment Agency. If the City does not elect to become the Successor Housing Agency, then the local Housing Authority (or if there is no local Housing Authority, the California Department of Housing and Community Development) will become the Successor Housing Agency.

EXISTING POLICY

The Redevelopment Implementation Plan Goal 1 states: *Meet the Agency's Existing Financial and Administrative Obligations*

DISCUSSION

The Successor Agency and the Successor Housing Agency will play a key day-to-day role in assuring that the existing bond debt service and 2010 ADDOPA obligations of the former Redevelopment Agency are properly paid, and that the former Redevelopment Agency's properties and other assets are disposed of in an appropriate manner. While the Successor Agency will be overseen by an "Oversight Board" of seven representatives selected largely by the County and various local education districts, the staff of the Successor Agency will have a strong role in initiating and implementing actions in a way that achieves not only the requirements of the Dissolution Act but also is sensitive to the long-term development needs of the City and local community, and that protects the credit rating of the City in the financial markets by assuring timely repayment of the former Redevelopment Agency's existing debts.

If the City elects not to serve this role, the Successor Agency will be some other local Taxing Entity that is likely to have no experience in redevelopment, financial, and land disposition matters, and that may not take into account the interests of the City and local community in performing its functions. Similarly, if the City elects not to serve as the Successor Housing Agency, then some other entity outside the City's control will perform various affordable housing functions in the City using affordable housing assets of the former Redevelopment Agency.

The Dissolution Act provides that the liability of the Successor Agency is limited to the funds and assets it receives under the Dissolution Act to perform its functions. Thus, if it takes on the role of Successor Agency (and Successor Housing Agency), the City would not expose its General Fund to liability to discharge the obligations of the former Redevelopment Agency (unless it was found to have mismanaged or misappropriated the funds and assets it does receive under the Dissolution Act). That said, it would be important for the City, if it becomes the Successor Agency (and Successor Housing Agency), to exercise the same care and prudence in the management and protection of the funds and assets that it receives from the former Redevelopment Agency as the City applies with its own funds and assets.

FISCAL IMPACT

The fiscal impact of the dissolution of the Redevelopment Agency will be substantial and will most likely impact the ability of the Agency to repay certain loans from the General Fund. The financial analysis is very complex and in progress. Under a worst case scenario, the City's General Fund would experience a shortfall of approximately \$6 million in FY 2011/2012. This loss would grow in future years as property values increase. In total the General Fund would lose a minimum of approximately \$134 million in Redevelopment Agency repayments as well as a total of \$61 million in affordable housing program funds as currently budgeted through the end of the Redevelopment plan in FY 2027/2028. At the same time, a portion of the lost Redevelopment tax increment revenue (approximately 16%) would be returned to the City in the form of property tax revenue. It is estimated that the City would receive a minimum of around \$960,000 in the first year, which grows with increases in assessed values. Over the remaining life of the Redevelopment Plan, this totals approximately \$31 million with current property tax growth assumptions.

The Dissolution Act permits the Successor Agency to receive an annual administrative operating budget to defray its administrative costs. Subject to the approval of the Oversight Board, an administrative allowance up to five percent of the Redevelopment project area property tax for FY 2011/2012 and up to three percent of the property tax each succeeding fiscal year is allowed;

provided, however, that the annual amount shall not be less than \$250,000 for any fiscal year unless agreed to by the Successor Agency. It is possible, but not clear in the Dissolution Act, that the City could receive a portion of this amount to perform its functions as the Successor Housing Agency.

PUBLIC CONTACT

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

ALTERNATIVES

1. Adopt the resolution electing to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency, and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act.
2. Do not adopt the resolution, electing to **not** serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency, and directing staff to file the appropriate resolution and notification of these elections in accordance with the Dissolution Act.

RECOMMENDATION

Staff recommends that the City Council approve Alternative #1 to adopt a resolution electing to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency, and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act.

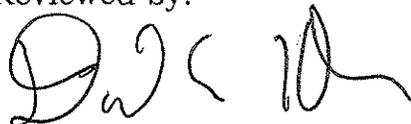
Reviewed by:



Grace K. Leung, Director, Finance

Prepared by: Brice McQueen, Redevelopment Manager

Reviewed by:



David Kahn, City Attorney

Approved by:



Gary M. Luebbers
City Manager

Attachments

- A. Resolution of the City of Sunnyvale to express its intent to serve as the Successor Agency of the Redevelopment Agency of the City of Sunnyvale, pursuant to Health and Safety code diction 34171(j) and section 34173, and to elect to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Sunnyvale, pursuant to Health and Safety code section 34176

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF SUNNYVALE TO EXPRESS ITS INTENT TO SERVE AS THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171(j) AND SECTION 34173, AND TO ELECT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, *et seq.*; the "Redevelopment Law"); and

WHEREAS, 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

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies will dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, the Dissolution Act provides that the city that authorized the creation of the redevelopment agency shall be the "successor agency" to the dissolved redevelopment agency unless the city elects not to serve as the successor agency under Section 34173(d)(1) of the Redevelopment Law; and

WHEREAS, Section 34176(a) of the Redevelopment Law provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, the City of Sunnyvale (the "City") intends to, and shall serve as, the successor agency for the Redevelopment Agency of the City of Sunnyvale (the "Agency") in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law; and

WHEREAS, the City desires to elect to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

NOW, THEREFORE, BE IT RESOLVED, that the City hereby accepts the designation, and hereby declares its intent, to serve as the successor agency for the Agency in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law.

BE IT FURTHER RESOLVED, the City hereby elects to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the City Manager, or her designee, is hereby directed to file a copy of this resolution with the County Auditor-Controller.

BE IT FURTHER RESOLVED, that the City Manager, or her designee, is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the City to transfer the assets of the Agency to the City, in its capacity as successor agency to the Agency, pursuant to Sections 34175 and 34176 of the Redevelopment Law.

Adopted by the City Council at a regular meeting held on _____, 2012, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

 City Clerk
 (SEAL)

 Mayor

APPROVED AS TO FORM AND LEGALITY:

 David E. Kahn, City Attorney