

**Oversight Board Meeting: April 26, 2012****SUBJECT: Approval of Easement and License Agreements with Carmel Partners for Plaza Del Sol****REPORT IN BRIEF**

The Sunnyvale Redevelopment Successor Agency is the owner of the Plaza del Sol, a public park and plaza in downtown Sunnyvale. Carmel Partners purchased the private development parcel directly adjacent to Plaza del Sol and is developing a private mixed use project with residential, retail and commercial space. The City Planning Division has worked with Carmel Partners to design a plan to provide active uses such as restaurants adjacent to Plaza del Sol. An easement will allow outside dining and retail shopping to utilize available space in Plaza del Sol directly adjacent to the Carmel Partners development. ABx1 26 provides for Oversight Board approval of actions related to Successor Agency real property, and accordingly the easement and license is being presented to the Oversight Board for approval prior to action by the Successor Agency.

**BACKGROUND**

The Plaza del Sol is a large public plaza and park in downtown Sunnyvale, within the boundaries of the Redevelopment Area. The Plaza del Sol was owned by the Sunnyvale Redevelopment Agency and transferred by operation of law to the Sunnyvale Successor Agency on February 1, 2012. Carmel Partners has entitlements for a private mixed-use development directly adjacent to Plaza del Sol and has entitlements for the development, which is under construction. A condition of approval for the Project is having retail and restaurant uses adjacent to Plaza del Sol to provide outdoor dining and activation of the Plaza space. To accomplish this, Carmel Partners requires a 30-foot easement from the Sunnyvale Successor Agency on Plaza del Sol for fire and building access. In addition, Carmel Partners requires a License from the Sunnyvale Successor Agency to allow outdoor dining and retail use of the Plaza del Sol directly adjacent to its private development.

**EXISTING POLICY**

Health and Safety Code Section 34163(d)(2) prohibits the Successor Agency from disposing of real property assets which includes rights in land such as an easement or license.

Health and Safety Code Section 34179 establishes Oversight Boards with the authority to approve Successor Agency actions.

### **DISCUSSION**

Plaza del Sol is a public plaza and park for the use of both Sunnyvale and visiting citizens. It has been under-utilized in past years due to a lack of adjacent retail and restaurant uses. Carmel Partners is developing, without any redevelopment agency funding, the private property adjacent to the Plaza del Sol. Appropriate urban planning involves active retail and restaurant uses directly adjacent to the Plaza del Sol to utilize the open space and bring shoppers and patrons to the Plaza. Carmel Partners agreed to include these retail and restaurant uses adjacent to the Plaza del Sol conditioned on the ability to obtain an easement and license from the then Sunnyvale Redevelopment Agency for a limited easement that will allow outdoor dining, and fire and building access.

### **FISCAL IMPACT**

There is no fiscal impact to the Successor Agency from granting the easement and license. Failure to approve the easement and license could result in the loss of retail and restaurant uses at the Carmel Partners development and loss of both property and sales tax revenues for allocation pursuant to ABx1 26.

### **PUBLIC CONTACT**

Public contact was made by posting the Oversight Board 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. Move to approve easement on Plaza del Sol between Successor Agency and Carmel Partners for emergency fire services, building access, and pedestrian access on over and across easement area, subject to approval by Successor Agency counsel.
2. Move to approve irrevocable license agreement on Plaza del Sol between Successor Agency and Carmel Partners for outdoor dining and uses compatible with retail uses, subject to approval by Successor Agency counsel.
3. Do not approve easement and license.

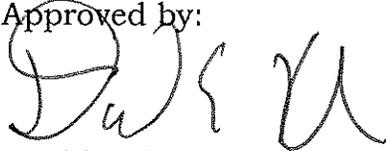
### **RECOMMENDATION**

Staff recommends Alternatives 1 and 2:

Move to approve easement on Plaza del Sol between Successor Agency and Carmel Partners for emergency fire services, building access, and pedestrian

access on over and across easement area, subject to approval by Successor Agency counsel, and move to approve irrevocable license agreement on Plaza del Sol between Successor Agency and Carmel Partners for outdoor dining and uses compatible with retail uses, subject to approval by Successor Agency counsel.

Approved by:

A handwritten signature in black ink, appearing to read 'D. Kahn', written in a cursive style.

David Kahn, Successor Agency Counsel