

REPORT TO CITY COUNCIL

DATE: AUGUST 24, 2011

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: CRAIG STEELE, CITY ATTORNEY
GREG RAMIREZ, CITY MANAGER

SUBJECT: DESIGNATION OF SUCCESSOR AGENCY

AB X1 26, which was signed by the Governor of California on June, 29, 2011, added Parts 1.8 and 1.85 to the Community Redevelopment Law. Part 1.8 immediately suspends most redevelopment agency activities and, among other things, prohibits redevelopment agencies from incurring indebtedness or entering into or modifying contracts. Part 1.85 provides that on October 1, 2011, all existing redevelopment agencies and redevelopment agency components of community development agencies are dissolved, and successor agencies are designated as successor entities to the former redevelopment agencies.

AB X1 27 was signed by the Governor concurrently with AB X1 26 and added Part 1.9 to the Community Redevelopment Law. Part 1.9 establishes an Alternative Voluntary Redevelopment Program whereby a redevelopment agency will, notwithstanding Parts 1.8 and 1.85, be authorized to continue to exist and carry out the provisions of the Community Redevelopment Law. To opt into the Alternative Voluntary Redevelopment Program, the City must adopt an ordinance by which the City agrees to make specified annual payments to the County Auditor-Controller for allocation to special districts and educational entities.

Effective October 1, 2011, AB X1 26 dissolves all existing redevelopment agencies and redevelopment agency components of community development agencies, provides for the designation of successor agencies as successor entities to former redevelopment agencies, and provides that except for those provisions of the Redevelopment Law that are repealed, restricted, or revised pursuant to AB X1 26, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies under the Redevelopment Law, are vested in the successor agencies. AB X1 26 imposes numerous requirements on the successor agencies and subjects successor agency actions to the review of oversight boards established pursuant to the provisions of Part 1.85.

The City Council has made a determination that the City will not participate in the Alternative Voluntary Redevelopment Program. Therefore, Part 1.85 provides for the City Council to adopt a resolution making an election with respect to serving as the successor agency under Part 1.85. The City Council may determine that the City will serve as the successor agency. If the City does not serve, the County Auditor-Controller will determine if another local agency (being the County or a special district in the County) elects to become the successor agency. If no local agency elects to serve as the successor agency, the Governor will appoint three residents of the

County to serve as the governing board of a “designated local authority,” which will be vested with all of the powers and duties of a successor agency.

It should be noted that the California Redevelopment Association and League of California Cities have filed a lawsuit in the Supreme Court of California alleging that AB X1 26 and AB X1 27 are unconstitutional. On August 11, 2011, the Supreme Court of California decided to hear the case and set a briefing schedule designed to allow the Supreme Court to decide the case before January 15, 2012. On August 11, 2011, the Supreme Court also issued a stay order, which was subsequently modified on August 17, 2011. Pursuant to the modified stay order, the Supreme Court granted a stay of all of AB X1 27 (i.e., Part 1.9), except for Health and Safety Code Section 34194(b)(2) (relating to the determination of cities’ fiscal year 2011-12 remittance amounts) and a partial stay of AB X1 26. With respect to AB X1 26, Part 1.85 was stayed in its entirety, but Part 1.8 (including Health and Safety Code Section 34173) was not stayed.

Staff recommends the City Council adopt a resolution making an election with respect to serving as a successor entity in the event the stay is lifted, AB X1 26 is upheld by the Supreme Court, and the Agency is dissolved pursuant to the Part 1.85.

As successor agency, the City will be entitled to an annual administrative cost allowance of not less than \$250,000 per year, provided that the allowance will exclude any administrative costs that can be paid from bond proceeds or sources other than property tax, and provided that the amount is subject to reduction if there is a shortfall of funds available to make payments to taxing entities and to pay debt service on enforceable obligations.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 11-1644, making an election for the City to serve as a successor agency under Part 1.85 in the event the Agency is dissolved.

Attachment: Resolution No. 11-1644

RESOLUTION NO. 11-1644

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA MAKING AN ELECTION IN CONNECTION WITH SERVING AS A SUCCESSOR AGENCY UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH

RECITALS:

A. The Agoura Hills Redevelopment Agency (the “Agency”) is a redevelopment agency in the City of Agoura Hills (the “City”), created pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the “Redevelopment Law”).

B. The City Council of the City (the “City Council”) adopted Ordinance No. 92-213, approving and adopting the redevelopment plan for the Agoura Hills Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Agency is undertaking a program to redevelop the Project Area.

C. AB X1 26 was signed by the Governor of California on June 29, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the California Health and Safety Code. Commencing upon the effectiveness of AB X1 26, AB X1 26 suspends most redevelopment agency activities and, among other things, prohibits redevelopment agencies from incurring indebtedness or entering into or modifying contracts. Effective October 1, 2011, AB X1 26 dissolves all existing redevelopment agencies and redevelopment agency components of community development agencies, provides for the designation of successor agencies as successor entities to former redevelopment agencies, and provides that except for those provisions of the Redevelopment Law that are repealed, restricted, or revised pursuant to AB X1 26, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies under the Redevelopment Law, are vested in the successor agencies. AB X1 26 imposes numerous requirements on the successor agencies and subjects successor agency actions to the review of oversight boards established pursuant to the provisions of Part 1.85.

D. Health and Safety Code Section 34173, which is set forth in Part 1.85, provides that a city that authorized the creation of a redevelopment agency may elect to serve, or not to serve, as the successor agency under Part 1.85.

E. AB X1 27 was signed by the Governor of California on June 29, 2011, adding Part 1.9 (commencing with Section 34192) to Division 24 of the California Health and Safety Code. Part 1.9 establishes an Alternative Voluntary Redevelopment Program whereby, notwithstanding the provisions of Part 1.8 and Part 1.85, a redevelopment agency will be authorized to continue to

exist and carry out the provisions of the Redevelopment Law upon the enactment, prior to the applicable deadline established in Part 1.9 (with the earliest deadline being October 1, 2011), by the city council of the city which includes that redevelopment agency of an ordinance to comply with Part 1.9. Pursuant to Health and Safety Code Section 34192, if a city participates in the Alternative Voluntary Program and complies with all requirements and obligations contained in Part 1.9, the redevelopment agency in that city will be exempt from Part 1.8 and Part 1.85.

F. The California Redevelopment Association and League of California Cities have filed a lawsuit in the Supreme Court of California alleging that AB X1 26 and AB X1 27 are unconstitutional. On August 11, 2011, the Supreme Court of California decided to hear the case and set a briefing schedule designed to allow the Supreme Court to decide the case before January 15, 2012. On August 11, 2011, the Supreme Court also issued a stay order, which was subsequently modified on August 17, 2011. Pursuant to the modified stay order, the Supreme Court granted a stay of all of AB X1 27 (i.e., Part 1.9), except for Health and Safety Code Section 34194(b)(2) (relating to the determination of cities' fiscal year 2011-12 remittance amounts) and a partial stay of AB X1 26. With respect to AB X1 26, Part 1.85 was stayed in its entirety, but Part 1.8 (including Health and Safety Code Sections 34167 and 34169) was not stayed.

G. The City Council desires to now adopt this Resolution making an election in connection with serving as a successor agency under Part 1.85 in the event that the stay is lifted, AB X1 26 is upheld by the Supreme Court of California, and the Agency is dissolved pursuant to Part 1.85.

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. This Resolution is adopted pursuant to Health and Safety Code Section 34173.

Section 3. The City Council hereby elects to serve as a successor agency under Part 1.85 in the event the Agency is dissolved pursuant to Part 1.85.

Section 4. The City Clerk is hereby authorized and directed to file a certified copy of this Resolution with the County Auditor-Controller.

Section 5. The officers and staff of the City are herEby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution, and any such actions previously taken by such officers are hereby ratified and confirmed.

Section 6. The adoption of this Resolution is not intended and shall not constitute a waiver by the City of any right the City may have to challenge the legality of all or any portion of AB X1 26 or AB X1 27 through administrative or judicial proceedings.

Section 7. At such time as the Agency becomes exempt from Parts 1.8 and 1.85, this Resolution shall be of no further force or effect.

Section 8. This Resolution has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the “Guidelines”), and the City’s environmental guidelines. The City Council has determined that this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b) (5)).

PASSED, APPROVED, and ADOPTED this 24th day of August, 2011, by the following vote, to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

PASSED, APPROVED, and ADOPTED this 24th day of August, 2011, by the following vote, to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Harry Schwarz, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Craig Steele, City Attorney