

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda date: January 9, 2012  
Reviewed by: BP

SUBJECT: Election Regarding Successor Agency/Successor Housing Agency to the  
Dissolving Albany Community Reinvestment Agency

REPORT BY: Beth Pollard, City Manager

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**STAFF RECOMMENDATION**

1. That the City Council adopt the attached Resolution No. 2012-1, electing to serve as both the Successor Agency and Successor Housing Agency to the Albany Community Reinvestment Agency, and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act.
2. That the City Council support urgency efforts for legislation to postpone the effective date of dissolution of redevelopment agencies, currently scheduled for February 1, 2012.

**BACKGROUND**

On December 29, 2011, the California Supreme Court delivered its decision in the *California Redevelopment Association v. Matosantos* case, finding ABx1 26 (the "Dissolution Act") largely constitutional and AB1x 27 (the "Alternative Redevelopment Program Act") unconstitutional. The Court's bifurcated decision means that all California redevelopment agencies, including the Albany Community Reinvestment Agency (the "Redevelopment Agency"), will be dissolved under the constitutional Dissolution Act, and none will have the opportunity to opt into continued existence under the unconstitutional Alternative Redevelopment Program Act.

As a result, the 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 (the "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 return revenues to the local government entities that receive property taxes (the "Taxing Entities"), and winding up the affairs of the former Redevelopment Agency.

| If the Redevelopment Agency has affordable housing assets, other than its existing housing fund balance, those would be turned over to a successor housing agency (the "Successor Housing Agency") to continue performing affordable housing activities. Since the Redevelopment Agency has no housing assets, this provision is not relevant to Albany. The former

Redevelopment Agency's affordable housing fund balance will be used to repay existing housing fund debts and/or remitted to the County Auditor-Controller for distribution to the Taxing Entities.

The Dissolution Act provides that the City of Albany (the "City"), 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 by 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 Alameda County Housing Authority will become the Successor Housing Agency.

## **ANALYSIS**

The Successor Agency and the Successor Housing Agency will play a key day-to-day role in assuring that the existing 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. The Successor Agency will be overseen by an "Oversight Board" of seven representatives selected largely by the County and various local education districts.

If the City elects not to serve this role, the Successor Agency will be some other Taxing Entity that is likely to have no experience in redevelopment financial and land disposition matters and that may not necessarily take into account the interests of the City and local community in performing its functions. 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.

Subject to the approval of the Oversight Board and to specified reductions if other funds are available for administration, the Dissolution Act permits the Successor Agency to receive an annual operating budget to defray its administrative costs in an amount up to five percent of the property tax allocated to the Successor Agency for FY 2011-12 to pay the former Redevelopment Agency's existing debts, and up to three percent of the property tax allocated to the Successor Agency each succeeding fiscal year; provided, however, that the annual amount shall not be less than \$250,000 for any fiscal year (or such lesser amount as agreed to by the

Successor Agency). It is possible, but not clear in the currently written Dissolution Act, that the City could receive a portion of this amount to perform its functions as the Successor Housing Agency.

While the Redevelopment Agency does not have any housing assets, staff recommends that the City serve as the Successor Housing Agency in order to best position itself in the event there is legislation or other activities that would qualify the Agency for funding or other benefits in the future.

### **SUSTAINABILITY IMPACT**

The Redevelopment District is an area that the City has targeted for sustainable business enterprises, both independently and through Albany's participation in the East Bay Green Corridor. Loss of redevelopment funds will compromise the city's ability to invest in improvements to the area that may be needed to attract and retain such businesses. The decision to eliminate redevelopment agencies also removes redevelopment agency revenue as a funding source for the maintenance center, park, and bike/pedestrian trail improvements on the Pierce Street property.

### **FINANCIAL IMPACT**

The exact financial impact of the court decision is unclear. Absent the State's actions to redirect Redevelopment Agencies' revenues to the State or other taxing entities, Albany's net annual tax increment revenue is approximately \$350,000. The Agency has incurred debts to the City for projects related to District improvements and property acquisition, for which the City - as Successor Agency, should seek sufficient revenues for repayment. However, the legislation provides that upon dissolution of the redevelopment agency on February 1, 2012, the agreements between the City and the Agency are null and void so the City may not be able to collect the amounts owed to it by the Agency. (See attached Enforceable Obligations Repayment Schedule). Other than the housing set-aside funds, the Redevelopment Agency does not currently have a fund balance.

The legislation provides that the successor agency is to receive funds for administration in an amount equal to 5% of the property taxes paid to the successor agency to meet the former redevelopment agency's obligations but not less than \$250,000 per year. This language would appear to provide the successor agency with a minimum of \$250,000 per year for administration but the administration budget of the successor agency will be subject to approval by the Oversight Board.

The Redevelopment Agency does not have any housing assets, but does have a housing set-aside balance of close to \$700,000. These funds accumulated as a result of the requirement on the Agency to set aside 20 percent of its annual tax increment. Upon dissolution of the Agency the housing fund balance is to be transferred to the county to be used to pay the former redevelopment agency's debts and obligation and for distribution to the taxing agencies (which would include the City)..

Establishing the City as the Successor Agency will enable Albany to have a more meaningful role in decisions about authorized revenues and payments as the Redevelopment Agency is dissolved.

### **NEXT STEPS**

With more than 400 redevelopment agencies in California, the State Supreme Court decision is far reaching and significant. The hundreds of community improvement projects contemplated or underway with anticipated use of redevelopment funds will come to a halt. Thousands of jobs will be lost in local government, construction, and associated fields.

It is possible that a redesign of redevelopment agencies can emerge from negotiations between local government officials and State officials that would allow redevelopment to continue in an altered form. League of California Cities and California Redevelopment Association officials point out that in passing the Alternative Redevelopment Program Act under ABx1 2, the State had crafted an avenue for redevelopment agencies to continue to exist – indicating a possible willingness to allow redevelopment to now continue. Staff recommends that the City Council and City staff support efforts to craft a solution that protects local government resources for redevelopment, while understanding the efforts will also consider the needs of education and other State budget issues. The first of these efforts is legislation to postpone the effective date of the dissolution of redevelopment agencies beyond the current date of February 1, 2012.

### **Attachments:**

1. Draft Resolution No. 2012-1
2. Enforceable Obligations Payment Schedule
3. Oversight Board composition
4. Dissolution delay fact sheet
5. For more information, including court decision and follow up actions:  
[www.calredevelop.org](http://www.calredevelop.org)