Resolution Regarding Successor Agency / Successor Housing Agency to the Dissolving Redevelopment Agency

RECOMMENDATION:

Council adopt the Draft Resolution (1) Determining the City of Atascadero Will Serve As the Successor Agency to the Atascadero Redevelopment Agency ("Agency") and (2) Electing that the City of Atascadero Retain the Housing Assets and Functions Previously Held and Performed by the Agency.

DISCUSSION:

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 Redevelopment Agency of the City of Atascadero (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. The Redevelopment Agency's affordable housing assets, other than its existing housing fund balance, will be turned over to a successor housing agency (the "Successor Housing Agency") to continue performing affordable housing activities. (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 Atascadero (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.

If the City elects not to serve as the Successor Agency, then that role will fall to the first local agency that elects to become the Successor Agency based on the earliest receipt of a resolution adopted by that agency; or, if none, then the Governor shall appoint three residents of the County to serve as the Successor Agency until a local agency elects to become the Successor Agency.

Even if the City elects to be the Successor Agency, the City Attorney 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.

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.

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 good name 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 in 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. 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.
FISCAL IMPACT:

The Fiscal Impact of AB 1 X 26 upon the City of Atascadero is under review.

ALTERNATIVES:

The City Council can decide not to adopt the Resolution. In such event, the Successor Agency to the Atascadero Redevelopment Agency will be the first taxing entity submitting to the County Auditor-Controller a duly adopted resolution electing to become the Successor Agency.

ATTACHMENTS:

1. Resolution of the City Council of the City of Atascadero (1) Determining the City of Atascadero Will Serve As the Successor Agency to the Atascadero Redevelopment Agency (“Agency”) and (2) Electing that the City of Atascadero Retain the Housing Assets and Functions Previously Held and Performed by the Agency.

2. Cover Letter to County Auditor-Controller
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO (1) DETERMINING THE CITY OF ATASCADERO WILL SERVE AS THE SUCCESSOR AGENCY TO THE ATASCADERO REDEVELOPMENT AGENCY (“AGENCY”); AND, (2) ELECTING THAT THE CITY OF ATASCADERO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY HELD AND PERFORMED BY THE AGENCY

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Sections 33000, et seq.) (“CRL”), the City Council (“City Council”) of the City of Atascadero (“City”) created the Atascadero Redevelopment Agency (“Agency”) to serve as the redevelopment agency within the City; and,

WHEREAS, in connection with approval and adoption of the State Budget for Fiscal Year 2011-12, the California Legislature approved and the Governor signed (i) AB 1X 26 (Stats. 2011, chap. 5, “AB 1X 26”), which immediately, and purportedly retroactively, suspended all otherwise legal redevelopment activities and incurrence of indebtedness, and provided for dissolution of California’s redevelopment agencies effective October 1, 2011 (the “Dissolution Act”); and (ii) AB 1X 27 (Stats. 2011, chap. 6, “AB 1X 27”), which allowed a local community to avoid the consequences of the Dissolution Act and continue its redevelopment agency if the community enacted an ordinance agreeing to comply with the alternative voluntary redevelopment program described in Section 2 of AB 1X 27 adding Part 1.9 (commencing with section 34192) of Division 24 of the Health and Safety Code; and,

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (California Redevelopment Association, et al. v. Ana Matosantos, et al., Case No. 5194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement; and,

WHEREAS, in a decision filed on December 29, 2011, the Supreme Court found the dissolution of redevelopment agencies effected by AB 1X 26 to be a proper exercise of the legislative power vested in the Legislature by the State Constitution and the provisions of AB 1X 27 allowing communities to save their redevelopment agencies if they made the “voluntary” remittance payments under AB 1X 27 to violate Proposition 22, thus upholding the constitutionality of AB 1X 26 and holding AB 1X 27 unconstitutional; and,

WHEREAS, the Supreme Court extended the timeframes set forth in AB 1X 26 for, among other things, determining whether a city desires to serve as a successor entity until January 13, 2012 and the dissolution of redevelopment agencies until February 1, 2012; and,
WHEREAS, Health and Safety Code Section 34171(j) defines the “successor agency” as the “county, city, or city and county that authorized the creation of each redevelopment agency,” unless such entity elects not to serve as a successor agency under Section 34173(d) (“Successor Agency”); and,

WHEREAS, Health and Safety Code Section 34177 tasks each successor agency with the responsibility, among other things, for winding down the dissolved redevelopment agency’s affairs, continuing to meet the former redevelopment agency’s enforceable obligations, overseeing completion of redevelopment projects and disposing of the assets and properties of the former redevelopment agency, all as directed by an oversight board; and,

WHEREAS, if a city opts out of serving as the successor agency by passing and filing a resolution to that effect with the county auditor-controller, Health and Safety Code Section 34173(d) provides that another local agency may elect to serve as the successor agency, or in the event no other local agency so elects, the Governor will appoint a successor agency to be comprised of three residents of the county; and,

WHEREAS, the City desires to serve as the successor agency to the Agency; and,

WHEREAS, Health and Safety Code Section 34176(a) gives the city that authorized creation of a redevelopment agency the option of retaining the agency’s housing assets and functions, excluding amounts on deposit in the Low and Moderate Income Housing Fund; and,

WHEREAS, as allowed under AB 1X 26, the City desires to retain the Agency’s housing assets and functions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO DOES HEREBY RESOLVE AS FOLLOWS:

1. In accordance with Health and Safety Code Section 34170 et.seq. including, but not limited to, Health and Safety Code Section 34171(j), the City Council hereby determines that the City shall serve as the Successor Agency to the Agency; and,

2. In accordance with Health and Safety Code Section 34170 et.seq. including, but not limited to, Health and Safety Code Section 34176, the City Council elects that the City shall retain the housing assets and functions previously performed by the Agency; and,

3. The City Council hereby further authorizes and directs the City Manager to take all actions and execute all documents as necessary or appropriate to implement this Resolution; and,

4. This Resolution shall take effect immediately upon adoption.
On motion by Council Member ____________ and seconded by Council Member ____________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

By: ____________________________
   Bob Kelley, Mayor

ATTEST:

Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

______________________________
Brian A. Pierik, City Attorney
January 13, 2012

Via Electronic Mail and U.S. Mail

Gere Sibbach, Auditor / Controller
Office of the San Luis Obispo County Auditor-Controller
Room D220, County Government Center
San Luis Obispo, CA 93408

Subject: Notification Regarding Successor Agency for the Redevelopment Agency of the City of Atascadero

Dear Mr. Sibbach:

This letter serves as the formal notification that the City of Atascadero (the "City") has adopted Resolution No. ____, on January 10, 2012 (the "Resolution"), to accept the designation, and to declare its intent, to serve as the "successor agency" for the Redevelopment Agency of the City of Atascadero (the "Agency") in accordance with Health & Safety Code Section 34171(j) and Health & Safety Code Section 34173. In addition, pursuant to the Resolution, the City has elected to retain the housing assets and functions previously performed by the Agency in accordance with Health & Safety Code Section 34176. A copy of the Resolution is attached to this letter.

Thank you for your attention to this matter. Should you have any questions, please contact [name] at [phone number] or [insert e-mail address].

Sincerely,

__________________________
(Printed Name, Title)