CITY OF WOODLAND
300 FIRST STREET
WOODLAND, CALIFORNIA

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD
SPECIAL MEETING AGENDA

AMENDED

JANUARY 10, 2012

5:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. COMMUNICATIONS-PUBLIC COMMENT

This an opportunity for the public to speak to the Council on any item other than those listed for public hearing on this agenda. Speakers are requested to use the microphone in front of the Council and to begin by stating their name, whether they reside in Woodland and the name of the organization they represent if any. The Mayor may impose a time limit on any speaker depending on the number of people wanting to speak and time available for the rest of the agenda. In the event comments are related to an item scheduled on the agenda, speakers may be required to wait to make their comments until that item is considered.

E. COMMUNICATIONS–COUNCIL/STAFF STATEMENTS AND REQUESTS

This is an opportunity for the Council Members and Staff to make comments and announcements, to express concerns, or to request Council's consideration of any items a Council Member would like to have discussed at a future Council meeting.

F. REPORTS OF THE CITY MANAGER

1. Discuss Dissolution of Redevelopment Agency and Determine Successor Agency; Notify Yolo County Auditor-Controller of this Decision by January 13, 2012 ; Elect to Retain the Housing Assets and Functions; Adopt Resolutions and Prepare Letter of Support for SB 659

G. ADJOURN

I declare under penalty of perjury that the foregoing Agenda for the Joint City Council/Redevelopment Agency Board special meeting of the City of Woodland scheduled for January 10, 2012 was posted on January 9, 2012, in the outside display case at City Hall, 300 First Street, Woodland, CA, and was available to the public during normal business hours.

____
Ana B. Gonzalez
City Clerk

Upon request, agendas and documents in the agenda packet will be made available in appropriate alternative formats to persons with a disability, as required by law. Any such request must be made in writing to the Office of the City Clerk of the City of Woodland. Requests will be valid for the calendar year in which the request is received, and must be renewed prior to January 1st.

Persons needing disability-related modifications or accommodations in order to participate in public meetings, including persons requiring auxiliary aids or services, may request such modifications or accommodations by calling the Office of the City Clerk (530-661-5806) at least 48 hours prior to the meeting.

City of Woodland

REPORT TO MAYOR AND CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD

AGENDA ITEM

AMENDED

TO: THE HONORABLE MAYOR AND CITY COUNCIL AND REDEVELOPMENT AGENCY BOARD

DATE: January 10, 2012

SUBJECT: Consideration of Resolution of the City Council of the City of Woodland, California, electing whether to serve or not as the successor agency to the Redevelopment Agency of the City of Woodland pursuant to Part 1.85 of Division 24 of the California Health and Safety Code

Report in Brief

As a result of the decision by the California Supreme Court (*California Redevelopment Association, et al*. v. *Ana Matosantos, et al*., Case No. S194861), every redevelopment agency in the State must dissolve pursuant to AB 1X 26. The City is now left with a decision whether to take on the role of successor agency to the dissolved redevelopment agency, which the City will by default, or whether to actively decline such role by January 13, 2012. If the City decides to take on the role of successor agency, it will have the benefit of having some control, with oversight board approval, of the redevelopment agency dissolution process.

However, there are limited risks involved in electing to be the successor agency, including not receiving reimbursement for administrative costs that exceed the successor agency's budget, not receiving reimbursement if there are insufficient tax increment funds to cover higher priority costs, and defending lawsuits against the City as successor agency at its own cost. However, pursuant to AB 1X 26, each of these potential risks are subject to the statutory limitation on successor agency liability to the amount of property tax received by the successor agency and the value of assets transferred to the successor agency.

Background

The Redevelopment Agency of the City of Woodland ("Agency") was created by the City Council for the purposes of implementing redevelopment activities in the City. The City Council adopted the Redevelopment Plan for the Woodland Redevelopment Project in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Woodland Redevelopment Project Area was found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment

Plan authorizes the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted and the Governor signed Assembly Bill 1X 26 ("AB 1X 26") and Assembly Bill 1X 27 ("AB 1X 27"). These bills took effect on June 29, 2011.

AB 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011. AB 1X 27 allowed a city or county that had a redevelopment agency to avoid dissolution by adopting an ordinance agreeing to make specified payments to reduce the State budget deficit.

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. S194861), challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement. On August 11, 2011, and August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and stayed AB 1X 27 in its entirety during the pendency of the matter.

On December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012.

AB 1X 26 provides that the City will be the "successor agency" to the Agency and responsible for the wind down of the Agency's affairs. The activities of the City, as successor agency, will be overseen by an oversight board, comprised primarily of representatives of other affected taxing agencies, until such time as the debts of the Agency are paid off, all Agency assets liquidated and all property taxes are redirected to local taxing agencies.

AB 1X 26 designates the City as the successor agency, unless the City elects not to serve as successor agency. The election not to serve as the successor agency must be made by City Council resolution, and a copy of the resolution must be filed with the County Auditor-Controller by January 13, 2012 (within 15 days of the Supreme Court's decision). Although the City may adopt a resolution electing to be the successor agency, the City will automatically become the successor agency by operation of law, unless the City affirmatively elects not to serve as the successor agency by City Council resolution.

If the City elects not to serve as the successor agency, another local agency (such as the County or School District) will have the ability to serve as the successor agency and control the wind down of the Agency's affairs. The wind down process is likely to be time consuming and complex. There is risk that there will be disputes over the proper implementation of the wind down process. However, if the City chooses not to serve as the successor agency, it will have little or no control over the manner in which the existing obligations and agreements of the Agency are handled during the wind-down process.

The City should also be aware of certain potential risks involved in electing to be the successor agency, including not receiving reimbursement for administrative costs that exceed the City's budget, not receiving reimbursement if there are insufficient tax increment funds to cover higher priority costs, and defending lawsuits brought against the City, as successor agency, at its own cost. However, the City should also know that pursuant to AB 1X 26, each of these potential risks are subject to the statutory limitation on successor agency liability to the amount of property tax received by the successor agency and the value of assets transferred to the successor agency.

Best Best & Krieger LLP, the City's Redevelopment Special Counsel, has prepared a memorandum discussing in more detail the advantages and disadvantages of the City serving as successor agency to the Woodland Redevelopment Agency, and the inherent risks of making that election. A copy of the memorandum is attached for your information (Attachment 1).

Housing Functions and Assets.

In addition, AB 1X 26 provides that the City, as the entity that created the Agency, may elect to retain the housing assets and obligations of the former redevelopment agency. If the City elects to retain the responsibility for performing housing functions previously performed by the Agency, all rights, powers, duties, and obligations of the former redevelopment agency shall be transferred to the City. Further, the City may retain funds in the Agency's Low and Moderate-Income Housing Fund, that are encumbered, but any unencumbered funds in the Housing Fund would not be transferred. Unless the costs associated with these housing obligations are set forth in an approved ROPS, the City will be assuming all of these costs, potentially without any additional funding source, and the costs would be the sole responsibility of the community general fund.

Unlike the election to be the successor agency, the City must affirmatively elect to retain the housing functions and assets of the former redevelopment agency. If the City does not elect to retain those housing responsibilities, AB 1X 26 provides that all rights, powers, assets, liabilities, duties and obligations associated with the housing activities of the former redevelopment agency will be transferred to the local housing authority, or if there is no local housing authority, to the California Department of Housing and Community Development.

Support for SB 659

As a result of the December 29, 2011, California Supreme Court ruling, redevelopment agencies are being asked to support SB 659, a bill that would temporarily postpone the scheduled February 1, 2012 date to dissolve California's 425 redevelopment agencies. This letter is in support of a coalition of labor, business, local government, public safety and affordable housing advocates working with members of the Legislature to pass SB 659 and temporarily postpone the February 1, 2012 dissolution deadline in order to preserve the ability to develop a new job creation and neighborhood renewal program.

Fiscal Impact

The City could incur unreimbursed costs as a result of serving as the successor agency, if such costs exceed the successor agency's approved budget. The successor agency is responsible for all staff and other administrative costs of the successor agency, as well as costs of meetings of the oversight board, which the successor agency is required to fund. The allowable administrative costs are limited to five percent of the total property tax allocated to the successor agency for the 2011-12 fiscal year, and up to three percent of the property tax allocated to the successor agency's Recognized Obligation Retirement Fund during each fiscal year thereafter, provided that if the percentage amount is less than $250,000, the successor agency may spend up to $250,000 on administrative expenses. However, these amounts are a cap and the administrative budget is subject to approval by the oversight board.

In addition, if the successor agency is sued as a result of its efforts to wind down the redevelopment agency, the successor agency could incur costs in defending any such lawsuit, although the successor agency's liability will be limited to the amount of property tax it receives and the value of assets transferred to it as successor agency under AB 1X 26.

The attached memorandum provides a more detailed discussion of the risks and possible fiscal impacts to the City if it elects to serve as successor agency to the Woodland Redevelopment Agency.

Alternative Courses of Action

1. A) Adopt resolution electing to serve as the successor agency to the Redevelopment Agency of the City of Woodland and notify the Yolo County Auditor-Controller of this decision by January 13, 2012;

   B) Elect to Retain the Housing Assets and Functions Pursuant to Part 1.85 of Division 24 of the Health and Safety Code; and

   C) Prepare Letter of Support for SB 659 to temporarily postpone dissolution of redevelopment agencies.

2. Adopt resolution electing NOT to serve as the successor agency to the Redevelopment Agency of the City of Woodland and notify the Yolo County Auditor-Controller of this decision by January 13, 2012.

Recommendation for Action

Staff recommends that the City Council approve Alternative No. 1 (A through C).

Ed Quinn
Agency Counsel

Attachment 1: Memorandum from Edward J. Quinn, Jr. of Best Best & Krieger LLP, Regarding the Role of Redevelopment Agency Successor Agency; Advantages and Disadvantages.

Attachment 2: Resolution of the City Council of the City of Woodland, California, Electing to Become the Successor Agency to the Redevelopment Agency of the City of Woodland Pursuant to Part 1.85 of Division 24 of the California Health and Safety Code.

Attachment 3: Resolution of the City Council of the City of Woodland, California, Electing Not to Serve as the Successor Agency to the Redevelopment Agency of the City of Woodland Pursuant to Part 1.85 of Division 24 of the California Health and Safety Code.

Attachment 4: Resolution of the City Council of the City of Woodland, California Electing to Retain the Housing Assets and Functions Previously Performed by the Redevelopment Agency of the City of Woodland, Pursuant to Part 1.85 of Division 24 of the California health and Safety Code

Attachment 5: Letter of Support for SB 659 to temporarily postpone dissolution of redevelopment agencies

Memorandum

To: Honorable Mayor and Members of the City Council
City of Woodland

Kevin O'Rourke
City Manager
City of Woodland

From: Edward J. Quinn, Jr.
Best Best & Krieger LLP

Date: January 6, 2012

Re: Role of Redevelopment Agency Successor Agency; Advantages and Disadvantages

BACKGROUND

On June 29, 2011, Governor Jerry Brown signed into law Assembly Bills 1X 26 and 1X 27. AB 1X 26 dissolves all redevelopment agencies in California and places responsibility for the liquidation of redevelopment assets and payoff of redevelopment agency debts with a "successor agency." AB 1X 26 statutorily designates the community that created the redevelopment agency as that redevelopment agency's successor agency, unless the community expressly elects not to act as successor agency. AB 1X 27, that would have provided communities with redevelopment agencies the opportunity to voluntarily make "community remittance" payments to the county and prevent the dissolution of their redevelopment agencies, was invalidated on December 29, 2011, by the California Supreme Court in its opinion in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861. The Supreme Court upheld the validity of AB 1X 26 in the same opinion.

As a result, each community with a redevelopment agency must decide whether or not to serve as successor agency for liquidation of the assets of its redevelopment agency and paying off the redevelopment agency's debts. The deadline for adopting a resolution electing <u>not to serve</u> as successor agency is January 13, 2012. This Memorandum describes the primary role of the successor agency and the primary advantages and disadvantages of being a successor agency.

Each community with a redevelopment agency must also decide whether or not to retain the housing assets and functions previously performed by the redevelopment agency. If the community elects to retain such housing functions and assets, all rights, powers, duties and obligations, excluding amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the community. If the community chooses not to retain such functions and assets, such functions and assets shall be transferred to a local housing authority in the territorial jurisdiction of the redevelopment agency, or if no housing authority exists, to the Department of Housing and Community Development. A discussion of the ramifications of electing to take on the redevelopment agency's housing functions and assets are beyond the scope of this Memorandum, but Best Best & Krieger LLP has prepared a separate memorandum discussing such election.

SUCCESSOR AGENCY ELECTION

Under AB 1X 26, as of February 1, 2012, each redevelopment agency will be dissolved and no longer exist.[1, 2] Except for those powers repealed or limited by AB 1X 26, the authority and obligations of the community's dissolved redevelopment agency, along with all of its assets, property, contracts, leases, books and records are transferred to and thereafter vested in the "successor agency."[3]

The successor agency is the community that created the redevelopment agency, unless the community expressly elects not to serve as the successor agency by passing a resolution making such election and filing a copy of this resolution with the county auditor-controller no later than January 13, 2012.[4]

If the community elects not to serve as successor agency, then any city, county, city and county or special district within the county of the former redevelopment agency may become the successor agency by adopting a resolution electing to be the successor agency and submitting the resolution to the county auditor-controller.[5] The first such agency that submits such a resolution to the county auditor-controller will be the successor agency.[6] If no such agency elects to serve as successor agency, the Governor will appoint three local residents of the county to serve as a "designated local authority" that will act as a successor agency, until a local agency elects to become the successor agency.[7]

SUCCESSOR AGENCY RESPONSIBILITIES

Starting February 1, 2012, successor agencies are required to do all of the following[8]:

- Continue to make payments due on redevelopment agency enforceable obligations (subject to the limitations of Sections 34171(e)(2) and 34177(a));

- Maintain reserves required by redevelopment agency bond documents;

- Perform obligations required by redevelopment agency enforceable obligations;

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[1] Health and Safety Code § 34172(a)(1) provides that redevelopment agencies' dissolution date is October 1, 2011. In its decision in *Matsantos*, though, the Supreme Court extended each effective date or deadline for performance of an obligation in AB 1X 26 occurring prior to May 1, 2012, to take effect four months later, with one exception – that the deadline for adopting a resolution not to serve as successor agency was extended to 15 days after issuance of the Supreme Court's opinion instead of four months.
[2] All statutory references in this Memorandum are to the Health and Safety Code, unless specifically stated otherwise.
[3] §§ 34173(b), 34175(b).
[4] §§ 34171(j), 34173.
[5] § 34173(d)(2).
[6] Ibid.
[7] § 34173(d)(3).
[8] § 34177.

- Pay unencumbered balances of redevelopment agency funds to the county auditor-controller, including the unencumbered balance of the Low and Moderate Income Housing Fund;

- Dispose of assets of the redevelopment agency as directed by the oversight board (discussed below);

- Enforce all redevelopment agency rights for the benefit of taxing entities, including collecting loans, rents, and other revenues due to the redevelopment agency;

- If the community that created the redevelopment agency so elects, transfer housing functions and assets to the community, otherwise to a local housing authority within the territorial jurisdiction of redevelopment agency, or if a housing authority does not exist, the State Department of Housing and Community Development;

- Wind down the affairs of the redevelopment agency in accordance with Sections 34170 through 34191 and the direction of the oversight board;

- Oversee development of properties, until the contracted work has been completed or the contractual obligations of the redevelopment agency can be transferred to other parties;

- Prepare a proposed administrative budget and submit it to the oversight board for approval;

- Provide administrative cost estimates to the county auditor-controller for each six month fiscal period to be paid from the Redevelopment Property Tax Trust Fund; and

- Before each six month fiscal period, prepare a "Recognized Obligation Payment Schedule" setting forth the minimum payment amounts and due dates of payments required by enforceable obligations during that six month fiscal period.

The successor agency must also create a "Redevelopment Obligation Retirement Fund,"[9] which is the fund from which the successor agency makes the enforceable obligation payments of the dissolved redevelopment agency listed in its Recognized Obligation Payment Schedule. The Redevelopment Obligation Retirement Fund is allocated funds from the Redevelopment Property Tax Trust Fund, which is created by the county auditor-controller to receive tax increment revenue otherwise allocable to the dissolved redevelopment agency to be disbursed to not only the Recognized Obligation Retirement Fund, but also to pay pass through

[9] § 34170.5.

payments, to pay successor agency administrative costs, and to be disbursed to other taxing entities within the dissolved redevelopment agency's jurisdiction.[10]

OVERSIGHT BOARD

The successor agency's activities are subject to review and approval by an oversight board. The oversight board will be comprised of seven political appointees from affected local taxing entities and the community, as follows[11]:

1. One member appointed by the county board of supervisors;

2. One member appointed by the mayor for the city that created the redevelopment agency. If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in the project area of the county or special district's redevelopment agency, the county superintendent of education may appoint an additional member to represent the public;

3. One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction off the redevelopment agency that is eligible to receive property tax revenues pursuant to Section 34188. If there are no eligible special districts within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public;

4. One member appointed by the county superintendent of education;

5. One member appointed by the Chancellor of the California Community Colleges;

6. One member of the public appointed by the county board of supervisors; and

7. One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

Cities that formed redevelopment agencies are responsible for selecting two of the seven oversight board members, including the member appointed by the mayor and the member representing the employees of the former redevelopment agency. Regardless of whether the county formed the redevelopment agency or not, the county is responsible for selecting two of the seven oversight board members, including one member appointed by the county board of

[10] §§ 34172(d), 34183(a).
[11] § 34179(a).

supervisors and one member of the public, and possibly a third member if there are no eligible special districts. If a county has formed a redevelopment agency, it is responsible for selecting an additional member representing the employees of the former redevelopment agency. As a result, the city or county should have multiple representatives looking out for the city or county's interests, respectively, on the oversight board. This oversight board representation is likely to be particularly important where the city or county is serving as successor agency, but may also be important where they do not.

The successor agency must receive approval from the oversight board before taking any of the following actions[12]:

- Establishing new repayment terms for any outstanding loans;

- Refunding of outstanding redevelopment agency debt to provide savings or avoid debt service spikes. The successor agency is not permitted to create additional debt or accelerate debt service;

- Setting aside reserves for outstanding redevelopment agency bonds;

- Merging project areas;

- Continuing acceptance of grants or other financial assistance, if the assistance is conditioned on the provision of matching funds in an amount greater than five percent;

- If a city or county wishes to retain any property or other assets for future redevelopment activities, the city or county can reach a compensation agreement with the other taxing entities to provide them a share of the value of the property retained. This agreement must also be approved by the oversight board;

- Establish the Recognized Obligation Payment Schedule;

- Any agreement between the successor agency and the city or county that formed the redevelopment agency; and

- An agreement of the successor agency to pledge, or enter into an agreement to pledge property tax revenues.

The oversight board is also required to direct the successor agency to do all of the following[13]:

- Dispose of all assets and property of the former redevelopment agency that were funded by tax increment. The oversight board may direct the successor agency to transfer ownership of certain public assets, such as

[12] § 34180.
[13] § 34181.

roads, school buildings, parks and fire stations, to an appropriate public agency pursuant to any existing agreements relating to the construction or use of such assets.

- Cease performance under any agreements that do not meet the definition of “Enforceable Obligations.”

- If the community that created the redevelopment agency so elects, transfer housing functions and assets to the community, otherwise to a local housing authority within the territorial jurisdiction of the redevelopment agency, or if a housing authority does not exist, the State Department of Housing and Community Development.

- Terminate any agreements between the redevelopment agency and any public entity providing funding for debt service obligations or for the construction or operation of facilities owned and operated by the public entity, if the oversight board determines that early termination would be in the best interest of the taxing entities.

- Determine whether any agreements with private parties should be terminated or renegotiated to reduce liabilities and increase revenues to the taxing entities.

ADVANTAGES AND DISADVANTAGES OF ELECTING TO BE THE SUCCESSOR AGENCY

The community that created a redevelopment agency is the successor agency under AB 1X 26, unless the community chooses not to serve as the successor agency. There may be some benefit to serving as the successor agency because the community will implement the wind-down of the redevelopment agency and have some control over that process, albeit under the oversight board’s supervision.

If the community chooses to take on the role of successor agency, though, the community should be aware that there may be the following risks associated with being the successor agency: (1) if the community’s administrative costs exceed the amount the community has budgeted for such costs, such amounts may be unreimbursed; (2) if there are insufficient tax increment funds to cover pass through payments and costs set forth in the Recognized Obligation Payment Schedule, the community may not receive some or all of the tax increment funds budgeted to cover administrative costs because administrative costs are a lower priority; (3) if a lawsuit is brought against the community as successor agency, the community may have to defend such lawsuit at its own cost. Each of these potential risks are subject to the statutory limitation on successor agency liability to the amount of property tax the successor agency receives and the value of assets transferred to the successor agency, all pursuant to AB 1X 26. Each of these potential risks is discussed in more detail below.

First, the community could incur unreimbursed costs as a result of serving as the successor agency, if such costs exceed the successor agency’s approved budget. The successor agency is responsible for developing an administrative budget for each upcoming six month fiscal period.[14] This budget should include costs of meetings of the oversight board, which the successor agency is required to fund.[15] The allowable administrative costs to be included in the budget are limited to five percent of the total property tax allocated to the successor agency for the 2011-12 fiscal year[16], and up to three percent of the property tax allocated to the successor agency's Recognized Obligation Retirement Fund during each fiscal year thereafter, provided that if the percentage amount is less than $250,000, the successor agency may spend up to $250,000 on administrative expenses.[17] However, these amounts are a cap and the administrative budget is subject to approval by the oversight board. Consequently, the successor agency will be eligible to receive an amount ranging from a minimum amount of $250,000 (unless a smaller amount is agreed to by the successor agency) and a maximum of five percent of property tax allocated to the successor agency in the 2011-12 fiscal year and three percent of the funds deposited into the Recognized Obligation Retirement Fund every year thereafter.

Additionally, there is a risk that the successor agency will not be distributed sufficient property tax revenues from the county auditor-controller to cover administrative costs if there are insufficient tax increment funds to cover higher priority costs. Starting February 1, 2012, the county auditor-controller is required to determine the amount of property taxes that would have been allocated to the redevelopment agency had the redevelopment agency not been dissolved.[18] These amounts are placed in the Redevelopment Property Tax Trust Fund at the county. Prior to each six month fiscal period, the county auditor-controller disburses the funds for the upcoming six month fiscal period in the following priority[19]:

1. To pay any amounts due to other taxing agencies through statutory pass through payments or under existing pass through agreements;

2. To each successor agency to make the payments listed in its Recognized Obligation Payment Schedule. This amount is deposited into the successor agency's Redevelopment Obligation Retirement Fund;

3. To each successor agency to pay its administrative costs as set forth in an approved budget; and

4. Any money remaining in the Redevelopment Property Tax Trust Fund shall be distributed to local agencies and school entities in each successor agency's jurisdiction.

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[14] § 34177(j).
[15] § 34179(c). This § 34179(c) also states that the successor agency's staff is responsible for performing work on behalf of the oversight board at the oversight board's guidance. Although the language of AB 1X 26 is unclear whether such costs are reimbursable administrative costs, it is likely that they are.
[16] The total property tax allocated to the successor agency includes any amounts the successor agency receives after oversight board approval in addition to any amounts received by the successor agency as a city, county or other taxing entity according to normal tax allocation formulas, and prior to deductions for payments pursuant to statutory pass through payments, pass through agreements or the Low and Moderate Income Housing Fund.
[17] § 34171(b).
[18] § 34182(c)(1).
[19] § 34183(a)

Because administrative costs are third priority, it is possible that there will not be sufficient tax increment funds to pay some or all of the successor agency's administrative costs. If prior to any six month fiscal period, the Controller determines there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the money to otherwise be distributed to local agencies and school entities, then from the money to otherwise be distributed to the successor agency to pay administrative costs.[20]

Finally, if the successor agency is sued as a result of its efforts to wind down the redevelopment agency, the successor agency could incur costs in defending any such lawsuit, although the successor agency's liability will be limited to the amount of property tax it receives and the value of assets transferred to it as successor agency under AB 1X 26.[21] There does not appear to be a clear mechanism for the successor agency to provide the funding necessary to defend lawsuits. Also, the oversight board has a clear interest in minimizing money allocated to pay the expenses of the successor agency, in order to increase the amount of property tax available for distribution to the other taxing agencies. The successor agency could be put in a position where it is obligated to defend a lawsuit arising from decisions of the oversight board, without additional funding to pay the costs of defense. However, beyond the attorneys' fees and other costs of suit, the successor agency will have limited liability pursuant to AB 1X 26.

CONCLUSION

As a result of the decision by the California Supreme Court, every redevelopment agency in the State must dissolve pursuant to AB 1X 26. Communities that created redevelopment agencies are left with a decision whether to take on the role of successor agency to the dissolved redevelopment agency, which they will by default, or whether to actively decline such role by January 13, 2012. If communities decide to take on the role of successor agency, they will have the benefit of having some control, with oversight board approval, of the redevelopment agency dissolution process. Communities should also be aware, though, that there are limited risks involved in electing to be the successor agency, including not receiving reimbursement for administrative costs that exceed the community's budget, not receiving reimbursement if there are insufficient tax increment funds to cover higher priority costs, and defending lawsuits against the community as successor agency at its own cost. However, communities should also know that pursuant to AB 1X 26, each of these potential risks are subject to the statutory limitation on successor agency liability to the amount of property tax received by the successor agency and the value of assets transferred to the successor agency.

If you have any further questions regarding the implementation of AB 1X 26, please do not hesitate to contact Ed Quinn or any other Best Best & Krieger LLP redevelopment attorney.

[20] § 34183(b).
[21] § 34173(e).

RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, ELECTING TO BECOME THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF WOODLAND PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the City Council of the City of Woodland ("City") approved and adopted the Redevelopment Plan for the Woodland Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Woodland ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed , companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; 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. S194861), 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, on August 11, 2011, and modified on August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and AB 1X 27 in its entirety during the pendency of the matter; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, AB 1X 26 further provides that, upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment, and will be allocated first to successor agencies to make payments on the existing indebtedness of the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions; and

WHEREAS, AB 1X 26 provides that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Election to be Successor Agency.** In accordance with Health and Safety Code Section 34173, and based on the Recitals set forth above, the City Council hereby elects and determines that the City of Woodland shall become the "successor agency" to the former Redevelopment Agency of the City of Woodland. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all authority, rights, powers, duties and obligations previously vested with the former Agency, under the CRL, shall be vested in the City as the successor agency to the Agency.

Section 3. **Implementation.** The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Yolo County Auditor-Controller, the Controller of the State of California, and the California Department of Finance providing notice of the adoption of this Resolution and the City's election to be the successor agency to the Agency, in accordance with AB 1X 26.

Section 4. **Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. **Certification.** The City Clerk shall certify to the adoption of this Resolution.

Section 6. **Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the ___ day of January, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

____
Art Pimentel, Mayor

ATTEST:

____
Sue Vannucci, City Clerk

RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, ELECTING NOT TO SERVE AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF WOODLAND PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the City Council of the City of Woodland ("City") approved and adopted the Redevelopment Plan for the Woodland Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Woodland ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed , companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; 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. S194861), 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, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, AB 1X 26 further provides that, upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment, and will be allocated first to successor agencies to make payments on the existing indebtedness of the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions; and

WHEREAS, AB 1X 26 provides that successor agencies be designated as successor entities to the former redevelopment agencies, and provides that, with certain exceptions, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the CRL, are vested in the successor agencies; and

WHEREAS, the California Supreme Court established a January 13, 2012 date by which a city or county must elect not to be a successor agency; and

WHEREAS, after review and analysis of the advantages and disadvantages associated with being the successor agency, the City desires to elect not to serve as the successor agency to the Agency under AB 1X 26; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. **Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Election Not To Serve As Successor Agency.** In accordance with Health and Safety Code Section 34173(d)(1), and based on the Recitals set forth above, the City Council hereby elects and determines that the City of Woodland shall not serve as the "successor agency" to the former Redevelopment Agency of the City of Woodland.

Section 3. **Implementation.** The City Council hereby authorizes and directs the City Manager to file a copy of this Resolution with the Yolo County Auditor-Controller, the Controller of the State of California, and the California Department of Finance providing notice of the adoption of this Resolution and the City's election not to serve as the successor agency to the Agency, in accordance with Health and Safety Code Section 34173(d)(1).

Section 4. **Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. **Certification.** The City Clerk shall certify to the adoption of this Resolution.

Section 6. **Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the ___ day of January, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

____
Art Pimentel, Mayor

ATTEST:

____
Sue Vannucci, City Clerk

RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, ELECTING TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF WOODLAND, PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the City Council of the City of Woodland ("City") approved and adopted the Redevelopment Plan for the Woodland Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Woodland ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments; 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. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27 and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, Health and Safety Code Section 34176 provides that the city that authorized the creation of the redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. **Recitals**. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. **Election to Retain Housing Assets and Functions**. In accordance with Health and Safety Code Section 34176, and based on the Recitals set forth above, because the City Council authorized the creation of the Redevelopment Agency of the City of Woodland, the City Council hereby elects to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Woodland. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all rights, powers, duties and obligations, excluding any unencumbered amounts on deposit in the Redevelopment Agency of the City of Woodland's Low and Moderate Income Housing Fund shall be transferred to the City of Woodland.

Section 3. **Implementation**. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the Yolo County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the transfer of all housing assets and functions of the former Redevelopment Agency of the City of Woodland to the City of Woodland, all in accordance with AB 1X 26.

Section 4. **Severability**. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. **Certification**. The City Clerk shall certify to the adoption of this Resolution.

Section 6. **Effective Date**. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the ___ day of January, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

____

Art Pimentel, Mayor Mayor

ATTEST:

____

City Clerk

January 10, 2012

Governor Jerry Brown
Members of the State Senate
Members of the State Assembly
State Capitol
Sacramento, CA 95814

Re: SUPPORT SB 659 (Padilla) – temporarily postpone dissolution of redevelopment agencies

Dear Governor Brown and Members of the State Legislature:

Our coalition of labor, business, local government, public safety, and affordable housing advocates urges you to quickly pass and sign SB 659 (Padilla), a bill that would temporarily postpone the scheduled February 1, 2012 date to dissolve California's 425 redevelopment agencies.

Temporarily postponing this February deadline will allow time for the Legislature and Governor to develop a new job creation and neighborhood renewal program, and to develop a solution that ensures that schools and the State budget receive the funding intended by the Legislature when they passed the redevelopment budget legislation last year.

Without the extension, successor agencies are responsible for winding down all assets, properties, contracts, leases, records, buildings, and equipment of the former redevelopment agencies, and laying off workers - actions that are incredibly difficult to undo.

Once the dissolution process starts, it will lead to lawsuits, endless delays, and ongoing conflict, making it more difficult to develop a new job creation and community revitalization program in California. Additionally, the dissolution process could take years. Thousands of jobs and vital economic development and affordable housing projects will be lost in the meantime

Ultimately, we are committed to working with lawmakers to create a new program that is appropriately focused on job-creation, environmentally sustainable growth, affordable housing, and the elimination of true blight and economic disparity. Any solution would also have to provide the State and local entities with additional budgetary relief that is now put in question because of the California Supreme Court ruling.

In the meantime, we ask for your support for SB 659 to temporarily postpone the dissolution of redevelopment agencies as we work toward a new job creation and neighborhood renewal program.

Sincerely,

Artemio Pimentel
Mayor

Attachments

LEGISLATURE MUST PASS SB 659 QUICKLY TO POSTPONE SCHEDULED DISSOLUTION OF REDEVELOPMENT AGENCIES ON FEBRUARY 1, 2012

Temporarily Postponing February 1 Deadline for Dissolution of Agencies Will Ensure the State and Education Receive the Funding Intended by the Legislature, and allow Time to Develop a New Job Creation and Neighborhood Renewal Program

Background: On December 29, 2011, the California Supreme Court ruled in the redevelopment litigation -- *CRA v. Matosantos* – upholding ABX1 26 which abolished redevelopment agencies, but striking down companion legislation that would have allowed agencies to survive if they contribute money to the State. As part of the Supreme Court's ruling, *agencies are to be dissolved on February 1, 2012*. A coalition of labor, business, local government, public safety and affordable housing advocates is working with members of the Legislature to pass SB 659 and temporarily postpone the February 1, 2012 dissolution deadline in order to preserve the ability to develop a new job creation and neighborhood renewal program. Here's why:

- **SB 659 will temporarily postpone the February 1 dissolution deadline allowing critical time to develop a new job creation and neighborhood renewal program.**
  - If agencies are dissolved on February 1, 2012, successor agencies are responsible for winding down all assets, properties, contracts, leases, records, buildings, and equipment of the former redevelopment agencies, and laying off workers -- actions that are incredibly difficult to undo.

- **Passing SB 659 is the first step toward creating a new program that helps the State budget, local communities and education.**
  - We are committed to working with lawmakers to create a new program that is appropriately focused on job creation, environmentally sustainable growth, affordable housing, and the elimination of blight and economic disparity.
  - Any new program will provide the State and local entities with additional budgetary relief that is now put in question because of the California Supreme Court ruling. We all are acutely aware that any job creation and neighborhood renewal program must give the state and education increased revenues for this fiscal year and beyond.

- **Allowing the dissolution process to proceed on February 1 will lead to mass litigation and chaos, shut down projects and lead to loss of jobs.**
  - Once the dissolution process starts, it will lead to lawsuits, endless delays, and ongoing conflict, making it more difficult to develop a new job creation and community revitalization program in California.
  - The dissolution process could take years. Thousands of jobs and vital economic development and affordable housing projects will be lost in the meantime.

YES, I SUPPORT SB 659

Temporarily Postponing February 1 Deadline for Dissolution of Redevelopment Agencies Will Ensure the State and Education Receive the Funding Intended by the Legislature, and Allow Time to Develop a New Job Creation and Neighborhood Renewal Program

Coalition Sign-Up Form

☐ **YES!** You may list me/my organization in support of SB 659, legislation to postpone the scheduled dissolution of redevelopment agencies set for February 1, 2012. Temporarily postponing the February 1 deadline for dissolution of agencies will allow time to develop a new job creation and neighborhood renewal program.

Please select a category: ☐ Organization ☐ Company ☐ Individual

Please complete the following information:

Company or Organization Name/Employer

Name Title/Occupation

Street address

City State Zip County

Phone number Fax number

E-mail Address

Signature (Required) Date

☐ **Please email me updates.**

Email or fax this form to: thalsted@bcfpublicaffairs.com or 916-442-3510 (fax)