

To: Board of Supervisors

From: Catherine Kutsuris, Conservation & Development Director

Date: January 17, 2012



Contra
Costa
County

Subject: Designation of the Successor Agency of the Contra Costa County Redevelopment Agency and related matters.

RECOMMENDATION(S):

1. ADOPT Resolution No. 2012/29 to accept the designation of, and to declare its intent to serve as, the "successor agency" to the Contra Costa County Redevelopment Agency (the "RDA") in accordance with Health & Safety Code Section 34171(j) and Health & Safety Code Section 34173; and to retain the housing assets and functions previously performed by the RDA in accordance with Health & Safety Code Section 34176; and to authorize the County, in its capacity as the successor agency to the RDA, to continue the RDA's validation action to validate the RDA's adoption of Resolution 2011/417 and specified supplements to loan agreements.
2. AUTHORIZE the County Administrator, or the County Administrator's designee, to file a copy of this resolution with the County Auditor-Controller in accordance with Part 1.85 of the California Community Redevelopment Law (constituting Part 1 of Division 24 of the California Health and Safety Code); and
3. AUTHORIZE the County Administrator, or the County Administrator's designee, to take such additional actions, and to execute all documents necessary and appropriate, for the County to obtain the housing assets of the Agency pursuant to Section 34176 of the Redevelopment Law (as added by Part 1.85).

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: 01/17/2012

☒ APPROVED AS RECOMMENDED

☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYES

5

NOES

ABSENT

ABSTAIN

RECUSE

Contact: Steven Goetz, 335-1240

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 17, 2012

David J. Twa, County Administrator and
Clerk of the Board of Supervisors

By: June McHuen, Deputy



cc:

FISCAL IMPACT:

The actions of the Successor Agency will be monitored, and in some cases approved, by an Oversight Board. State law requires the Oversight Board to direct the Successor Agency to determine whether contracts, agreements or other arrangements between the former redevelopment agency (RDA) and private parties should be terminated or renegotiated to reduce the Successor Agency's liabilities and to increase net revenue to the taxing entities within a project area. In at least three instances (Avalon Bay, Coggins Square, and the Park Regency), the RDA has pledged future tax increment to ensure the financial feasibility and strong management of the related housing projects. In the case of Avalon Bay, a renegotiation could have a ripple effect on the ground lease resulting in the County's loss of its portion of the 99 year lease revenue stream currently dedicated to the County General Fund (which has been estimated to be approximately between \$500 and \$750 million). The County will be in a better position to protect this agreement, and the revenue stream to the General Fund, if it assumes the role of the Successor Agency.

All assets, properties, contracts, leases, books and records, buildings, equipment and the existing Housing Fund balance of the RDA will be transferred to the control of the Successor Agency on February 1, 2012, according to the Supreme Court's modified timeline. The Successor Agency is required to make payments and perform other obligations due for the RDA which include: bonds, loans, payments required by federal or state government; judgments or settlements; and legally binding and enforceable agreements or contracts. It is in the best financial interest of the County that such obligations be honored to the extent possible. This exposure is most acute with debt service payments on bonds issued for the RDA. While such debt service payments are an obligation of the RDA and the Joint Powers Agency created by the County and RDA, failure to fully meet debt service payments would potentially have a negative impact on the County's credit rating. Assuming the role of the Successor Agency will improve the chances that these obligations will be fully honored.

BACKGROUND:

Redevelopment law as revised in June of 2011 provides that the County, having authorized the creation of the RDA, shall be the "successor agency" to the RDA should the RDA be dissolved. The County, may also elect to retain the housing assets and functions previously performed by the RDA. The law further provides that if the County does not wish to serve as the successor agency, it must inform the County Auditor-Controller, who will then appoint a non-County entity as the successor agency.

Having a non-County entity designated as the successor agency for the RDA may pose some risks to the County. A successor agency must, among other things, liquidate all assets of the agency and ensure future payments of enforceable obligations (including debt service payments). The County's interest may not be well served if another entity became the successor agency and assumed responsibility for selling properties in the former project areas and for paying off bonds issued by the Contra Costa Public Finance Authority.

Similarly, the County may elect to assume the RDA's housing functions and take over the housing assets of the RDA, along with related rights, powers, liabilities, duties and obligations. If the County does not elect to assume these functions, such housing functions and all related non-cash assets would be transferred to the County Housing Authority or the State Department of Housing and Community Development. The primary function of the RDA has been to implement the County's affordable housing policies.

To reduce risk to the County's interests and to meet the time line of the new redevelopment law, the Board of Supervisors adopted Resolution 2011/340 on August 4, 2011. Resolution 2011/340 declared the Board's intent to serve as the successor agency should the Board decide not to continue the redevelopment program.

As you know, the redevelopment law has been the subject of litigation and the time lines in the new redevelopment law were suspended. 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 Contra Costa County 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. Dissolution will occur on February 1, 2012 under a modified time line.

Resolution 2011/340 was conditioned on the Board deciding not to continue the redevelopment program. Since the RDA's dissolution was the result of legislation which was upheld by the California Supreme Court and not a decision of the Board of Supervisors, it is recommended that a new unconditional resolution be adopted by the Board in response to the Supreme Court's action. Resolution 2012/29 is attached to this board order and is unconditional. Upon approval, Resolution 2012/29 will be submitted to the County Auditor-Controller.

CONSEQUENCE OF NEGATIVE ACTION:

If Resolution No. 2012/29 is not adopted, a non-County entity will become the successor agency to the RDA and the Housing Authority or the State will become the successor agency for the RDA's housing program.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/17/2012 by the following vote:

AYES: ☒ 5
 John Gioia
 Gayle B. Uilkema
 Mary N. Piepho
 Karen Mitchoff
 Federal D. Glover

NOES: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2012/29

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA TO SERVE AS THE SUCCESSOR AGENCY OF THE CONTRA COSTA COUNTY REDEVELOPMENT AGENCY PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171(j) AND SECTION 34173, AND TO ELECT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE CONTRA COSTA COUNTY REDEVELOPMENT AGENCY PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies will dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, the Dissolution Act provides that the county that authorized the creation of the redevelopment agency shall be the "successor agency" to the dissolved redevelopment agency unless the county elects not to serve as the successor agency under Section 34173(d)(1) of the Redevelopment Law; and

WHEREAS, Section 34176(a) of the Redevelopment Law provides that the county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, the County of Contra Costa (the County) desires to elect to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

WHEREAS, On December 2, 2011, the RDA filed a validation action to validate the RDA's adoption of Resolution 2011/417. Resolution 2011/417, which was adopted on October 4, 2011, authorized the execution of supplements to loan agreements between the RDA and the County of Contra Costa Public Financing Authority (PFA). Execution of the loan agreement supplements is necessary to implement the PFA's Bond Redemption, Purchase and Defeasance Program. The purpose of the lawsuit is to obtain a court order that will validate those loan agreement supplements.

NOW, THEREFORE, BE IT RESOLVED, that the County hereby accepts the designation of, and hereby declares its intent to serve as, the successor agency to the Agency in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law.

BE IT FURTHER RESOLVED, the County hereby elects to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the County Administrator or the County Administrator's designee is hereby directed to file a

copy of this resolution with the County Auditor-Controller.

BE IT FURTHER RESOLVED, that the County Administrator or the County Administrator's designee is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the County to transfer the assets of the Agency to the County in its capacity as successor agency to the Agency pursuant to Sections 34175 of the Redevelopment Law and successor housing agency pursuant 34176 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the County, in its capacity as the successor agency to the RDA, is authorized to continue the RDA's validation action to validate the RDA's adoption of Resolution 2011/417 and specified supplements to loan agreements.

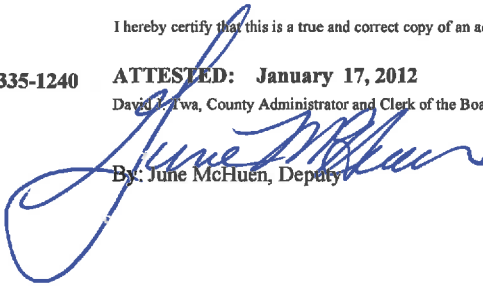
I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Steven Goetz, 335-1240

ATTESTED: January 17, 2012

David L. Iwa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy



cc: