

Meeting Date: 3/8/11

AGENDA REPORT

Agenda Item # 30



City of Santa Clara, California



Date: March 7, 2011

To: City Manager for Council Action
Executive Director for Redevelopment Agency Action
Contract Administrator for Sports and Open Space Authority Action

From: Administrative Analyst to the City Manager

Subject: Adoption of Resolutions Authorizing the Execution of an Assignment and Assumption Agreement Assigning the Agency's Interest in Certain Leases, Subleases and Cooperation Agreement to the City of Santa Clara

EXECUTIVE SUMMARY:

As part of its 2011-12 budget proposal, the State has proposed permanently shutting down local redevelopment agencies in California, effective immediately upon passage. The proposal was approved by the State Budget Conference Committee on March 3, 2011; it is now expected to be voted upon by the full Assembly and Senate on March 9, 2011. In order to prevent the loss of Redevelopment Agency assets if the proposal is passed, staff is recommending certain actions for Council consideration.

The Sports and Open Space Authority (SOSA) owns approximately 80+ acres in the City of Santa Clara along Lick Mill Blvd., south of Tasman Boulevard. The largest portion of SOSA property, approximately 40 acres, is the Ulistac Natural Area. Another portion of SOSA property, approximately 43 acres at 1500 Vista Club Circle, 1600 Nantucket Circle, and 4500 Carlyle Court, is under lease to the Redevelopment Agency and has been subleased to a private party for the construction of 1162 apartments. Currently, under a cooperation agreement between the Redevelopment Agency and SOSA, the annual lease payments from the private party go to SOSA. Because of other financing arrangements between the City and SOSA whereby the City agreed to pay certain obligations of SOSA, the lease revenues are then paid to the City and are an important source of revenue for the City's General Fund budget. Given the uncertainty of the future of redevelopment agencies, it is recommended that the Agency's leasehold interest in this property as well as the Agency's interest in the Cooperation Agreement be assigned to the City.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

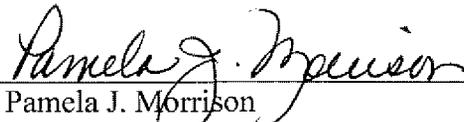
Assignment of this leasehold interest and the Cooperation Agreement to the City will ensure that the City General Fund continues to receive the annual leasehold payments from the private party sublessee. There are no identified disadvantages.

ECONOMIC/FISCAL IMPACT:

The City General Fund receives approximately \$1.4 million per year in lease payments from this property.

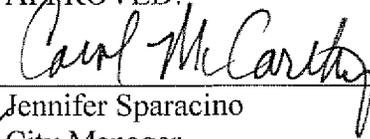
RECOMMENDATION:

- 1) That the City adopt a Resolution authorizing the execution of an Assignment and Assumption Agreement with the Redevelopment Agency accepting assignment of the Agency's interest in certain leases, subleases and the Cooperation Agreement;
- 2) That the Agency adopt a Resolution authorizing the execution of an Assignment and Assumption Agreement with the City of Santa Clara assigning the Agency's interest in certain leases, subleases and Cooperation Agreement;
- 3) That SOSA adopt a Resolution consenting to the assignment by the Redevelopment Agency to the City of Santa Clara of interest in certain leases, subleases and Cooperation Agreement.



Pamela J. Morrison
Administrative Analyst to the City Manager

APPROVED:



 _____
Jennifer Sparacino
City Manager
Executive Director for Redevelopment Agency
Contract Administrator for Sports and Open Space Authority

Documents Related to this Report:

- 1) ***Resolution Authorizing The Execution Of An Assignment And Assumption Agreement With The Redevelopment Agency Of The City Of Santa Clara Accepting Assignment Of The Agency's Interest In Certain Leases, Subleases and Cooperation Agreement***
- 2) ***Consenting To The Assignment By The Redevelopment Agency Of The City Of Santa Clara To The City Of Santa Clara Of Certain Leases, Subleases and Cooperation Agreement***
- 3) ***Resolution Authorizing The Execution Of An Assignment And Assumption Agreement With The City Of Santa Clara Assigning The Agency's Interest In Certain Leases, Subleases and Cooperation Agreement***

E:\AGENDA REPORTS\2011\03-08-11 Interland Lease Assignment.doc

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA AUTHORIZING THE EXECUTION OF AN
ASSIGNMENT AND ASSUMPTION AGREEMENT WITH
THE REDEVELOPMENT AGENCY OF THE CITY OF
SANTA CLARA ACCEPTING ASSIGNMENT OF THE
AGENCY'S INTEREST IN CERTAIN LEASES AND
SUBLEASES**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City Council (the "City Council") of the City of Santa Clara (the "City") has adopted the Bayshore North Redevelopment Plan (as amended, the "Redevelopment Plan"). The Redevelopment Plan sets forth a plan for redevelopment of the Bayshore North Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Santa Clara (the "Agency") is responsible for administering the Redevelopment Plan to cause redevelopment of the Project Area;

WHEREAS, the Agency is the lessee under certain Master Leases with the Sports and Open Space Authority and is the Sublessor under certain Subleases with with Jim Joseph as Trustee of the Jim Joseph Revocable Trust, and Carlyle at Santa Clara, LLC;

WHEREAS, the City desires to accept assignment of all of the Agency's rights, title and interest in the Master Leases and the Subleases from the Agency pursuant to the terms of an Assignment and Assumption Agreement (the "Agreement"), substantially in the form on file with the City Clerk and the Agency Secretary;

WHEREAS, the Master Leases and the Subleases are more particularly described in the Assignment Agreement,

WHEREAS, pursuant to Section 15061(b)(3) of the CEQA Guidelines, the Assignment Agreement is exempt from the requirements of CEQA because the use of the Property will not change or otherwise be modified following the assignment of the master leases and subleases by the Agency to the City pursuant to the Assignment Agreement; and

WHEREAS, by staff report accompanying this Resolution and incorporated into this Resolution by this reference (the "Staff Report"), the City Council has been provided with additional information upon which the actions set forth in this Resolution are based. Among other things, the Staff Report describes the Property.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the City Council finds that the above recitals are accurate.
2. That the City Manager is hereby authorized and directed to file a Notice of Exemption with respect to the Agreements in accordance with the applicable provisions of CEQA.
3. That the City Council hereby approves the Assignment Agreement; approves execution of the Assignment Agreement by the City Manager, approves the execution by the City Manager of all ancillary documents in substantially the form on file with the City Clerk and the Agency Secretary, with such changes as are approved by the City signatory (such approval to be conclusively evidenced by the execution of the Assignment Agreement); and approves the acceptance of the real property interest in the Master Leases and Subleases by the City pursuant to the provisions of the Assignment Agreement.
3. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the

remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

4. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 2011, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference:
1. Assignment and Assumption Agreement
S:\CityManager\March 8 Special Meeting\Interland Reso CITY.DOC

**RECORD WITHOUT FEE PURSUANT
TO GOV'T CODE SECTION 6103**

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Form per Gov't Code Section 27361.6

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Interland Property)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is entered into as of March 8, 2011 (the "Effective Date"), by and between the Redevelopment Agency of the City of Santa Clara, a public body corporate and politic (the "Assignor" or the "Agency"), and the City of Santa Clara, a charter city (the "Assignee" or the "City"), and with reference to the following facts:

RECITALS

A. The Agency is the Lessee of certain property more particularly described in Exhibit A attached hereto (the "Property") pursuant to that certain (i) Master Lease between the Santa Clara Sports and Open Space Authority ("SOSA") and the Agency dated August 7, 1996 for Parcel R-1; (ii) Master Lease between the SOSA and the Agency dated December 10, 1996 for Parcel R-3; and (iii) Master Lease between SOSA and the Agency dated March 25, 1999 for Parcel R-4 (collectively the "Master Leases").

B. Subsequent to entering into the Master Leases, the Agency entered into an (i) Amended Sublease for Parcel R-1 of the Property with Jim Joseph, as Trustee of the Jim Joseph Revocable Trust Dated January 19, 1990, As Amended and Restated in its Entirety March 22, 1995 dated August 7, 1996, as amended and a Sublease for Parcel R-3 of the Property with Jim Joseph, as Trustee of the Jim Joseph Revocable Trust Dated January 19, 1990, As Amended and Restated in its Entirety March 22, 1995 dated December 10, 1996; and (iii) a Sublease for Parcel R-4 of the Property with Carlyle at Santa Clara, LLC dated March 25, 1999 (collectively "Subleases").

C. The Agency desires to assign to the City, and the City desires to assume from Agency, all of the Agency's rights, title and interests under the Master Leases and the Subleases.

D. Following the Effective Date, the City shall be the Lessee under the Master Leases and the Sublessor under the Subleases.

E. SOSA has consented to the Assignment.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and the City (collectively, the "Parties") mutually agree as follows:

1. Assignment by Agency. As of the Effective Date, the Agency hereby assigns transfers and delegates to the City, all of Agency's right, title, and interest in and obligations under the Master Leases. As of the Effective Date, the Agency hereby assigns, transfers and delegates to the City, all of the Agency's rights, title and interest in and obligations under the Subleases.

2. Acceptance of Assignment. As of the Effective Date, City hereby accepts the above assignment and hereby assumes, agrees and undertakes to perform all of the obligations, covenants and agreements of Agency pursuant to the Master Leases and the Subleases. Any reference to Agency in the Master Leases and the Subleases shall be deemed a reference to the City.

3. Representations. Agency hereby represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights under the Master Leases or the Subleases.

4. Governing Law. This Assignment shall be governed by the laws of the State of California.

5. Headings. Section headings contained in this Assignment are inserted as a matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Assignment or any of its provisions.

6. Severability. If any term, provision, covenant or condition of this Assignment is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

7. Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Assignment, or otherwise arising out of this Assignment, the party prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable attorneys' fees, expenses, and costs incurred in such action.

8. Counterparts. This Assignment may be executed in counterparts by the Parties hereto, each of which shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Assignment as of the Effective Date.

ASSIGNOR:

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA,
a redevelopment agency, a public body, corporate and politic,
organized and existing in the County of Santa Clara,
under and by virtue of the laws of the State of California

APPROVED AS TO FORM:

ELIZABETH H. SILVER
Interim Agency General Counsel

JENNIFER SPARACINO
Executive Director

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Facsimile: (408) 241-6771

ROD DIRIDON, JR.
Agency Secretary

“Agency”

ASSIGNEE:

CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation

APPROVED AS TO FORM:

ELIZABETH H. SILVER
Interim City Attorney

JENNIFER SPARACINO
City Manager

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

ROD DIRIDON, JR.
City Clerk

“CITY”

SIGNATURES MUST BE NOTARIZED

CONSENT TO ASSIGNMENT

The Santa Clara Sports and Open Space Authority hereby consents to the Redevelopment Agency of the City of Santa Clara assignment of the Master Leases and Subleases to the City of Santa Clara.

SPORTS AND OPEN SPACE AUTHORITY OF THE CITY OF SANTA CLARA

a public body, corporate and politic,
organized and existing in the County of Santa Clara,
under and by virtue of the laws of the State of California

APPROVED AS TO FORM:

ELIZABETH H. SILVER
Interim Authority General Counsel

JENNIFER SPARACINO
Contract Administrator

ATTEST:

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax Number: (408) 241-6771

ROD DIRIDON, JR.
Authority Secretary

“SOSA”

State of California)

County of _____)

On _____, 2011, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)

County of _____)

On _____, 2011, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Nantucket Apartments
1600 Nantucket Circle
APN: 097-05-105

Bella Vista Apartments
1500 Vista Club Circle
APN: 097-05-097

Carlyle Apartments
4500 Carlyle Court
APN: 097-83-001

03/08/11

3A.-E.
2A.-F. (RDA)
2A. (SOSA)
2A. (SA)
2A-B. (HA)

**ACTIONS TO PROTECT
REDEVELOPMENT AGENCY ASSETS**

CITY COUNCIL MEETING

MARCH 8, 2011

Actions Tonight:

- Assignment and Assumption Agreement: Redevelopment Agency Funded Low and Moderate Income Housing Projects
- Conveyance of Agency-owned housing property to the Housing Authority
- Conveyance of Agency-owned property to the City
- Assignment of Agency interest in SOSA-owned property to the City

Actions Tonight (cont'd)

- Transfer of stadium-related Agency Capital Improvement Projects and appropriations to the Stadium Authority
- Transfer of all other non-stadium-related Agency Capital Improvement Projects and appropriations to the City
- Urgency ordinance amending the Redevelopment Plan for the Bayshore North Project Area, Debt Incurrence Time Limit Deletion (SB 211 Amendment)

Affordable Housing

Securing Affordable Housing Funds

- RDA/CITY "Cooperation Agreement" (Feb 8, 2011) creates Agency indebtedness of housing funds to City. Commits tax increment revenue already received but unencumbered by any existing contractual obligation.
- CITY HOUSING AUTHORITY (Feb 22, 2011) created as separate entity. CHA controlled by Commission composed of Mayor & Council.
- RDA/CITY/CHA approve "Assignment & Assumption Agreement" (March 8, 2011) to transfer Cooperation Agreement to CHA.

Securing Affordable Housing Funds (Cont'd)

Purpose:

- Commits all unencumbered housing funds.
- Keeps decision-making authority with Council – not an "oversight board".

Securing Affordable Housing Lands

TRANSFER TITLE of three Agency-owned properties to Housing Authority:

- 3575 De La Cruz Blvd (former Fire Station #6) future site for Habitat for Humanity project;
- 611 El Camino Real site of HomeSafe Santa Clara transitional housing facility for victims of domestic violence (lease to 2055);
- San Tomas Expway-Monroe Street southwest corner site planning for development proposals expected summer 2011.

Securing Affordable Housing Lands (Cont'd)

Purpose:

- Continuation of project implementation
- Keeps decision-making authority with Council – not an “oversight board”

Redevelopment Agency Properties and Leases

Description Of Properties For Conveyance From The Redevelopment Agency To The City

- Santa Clara Convention Center and bridge to Santa Clara Golf & Tennis Club
Location: 5001 Great America Parkway
- Hyatt Regency Santa Clara
Location: 5101 Great America Parkway
- Techmart Meeting Center
Location: 5201 Great America Parkway

Description Of Properties For Conveyance From The Redevelopment Agency To The City (Cont'd)

- Hilton Santa Clara
Location: 4949 Great America Parkway
- California's Great America Theme Park (and parking lots)
Location: 4701 Great America Parkway
- Martinson Child Development Center
Location: 1350 Hope Drive
- Gateway Office Park
Location: 5353 Great America Parkway

Capital Improvement Projects

Redevelopment Agency CIP Projects Transferring To City

- Convention Center Parking Garage Modification
- Tasman Drive Parking Structure
- Youth Soccer Park
- Golf Course Perimeter Drainage
- San Tomas Aquino Creek Trail
- Ulistac Natural Area Wetland Mitigation
- Yerba Buena Site Development
- Convention Center Ballroom Expansion

Redevelopment Agency CIP Projects Transferring To City (Cont'd)

- Northside Branch Library
- Convention Center Fire Alarm Upgrade
- San Tomas Aquino Creek Trail Spur Trail
- Martinson Day Care Center
- Walsh Avenue Sanitary Sewer Improvements
- Yerba Buena Site Development Fees
- RDA Project Major Refurbishment
- Downtown Revitalization

Redevelopment Agency CIP Projects Transferring To City (Cont'd)

- Housing Administration of Grants to Non-Profit Housing Service Providers
- First Time Homebuyers Financing Program
- BAREC Senior Housing (2 Projects)
- SCCo Surplus Site Monroe/San Thomas Expressway
- First Time Homebuyer Program
Condominium Conversion

Redevelopment Agency CIP Projects Transferring To City (Cont'd)

- Bill Wilson Center - The Commons Project
- Downtown Housing (2 Projects)
- ROEM Corp Housing Project
- Charities Housing Acquisition-Rehab Project
- Purchase Old Fire Station #6 Site
- Neighborhood Conservation & Improvement Program (NCIP) Phase IV

Redevelopment Agency CIP Projects Transferring To City (Cont'd)

- 1410 El Camino Real Housing Project
- Acquisition of City Housing

Redevelopment Agency CIP Projects Transferring To Stadium Authority

- Stadium Site Reimbursable Development Fees
- Agency Stadium Investment