

Meeting Date: 3/8/11

# AGENDA REPORT

Agenda Item # 3A



City of Santa Clara, California



**Date:** March 8, 2011

**To:** City Manager for Council Action  
 Executive Director for Redevelopment Agency Action  
 Executive Director for Housing Authority Action

**From:** Housing and Community Services Division Manager

**Subject:** Adoption of Resolution Authorizing the Execution of Assignment and Assumption Agreement Affecting the Cooperation Agreement For Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects to the City of Santa Clara Housing Authority

**EXECUTIVE SUMMARY:**

The City and the Redevelopment Agency entered into a Cooperation Agreement on February 8, 2011, thereby the Agency committed net available housing set-aside funds to the City for financing specific affordable housing activities. Furthermore, on February 22, 2011, the City established by resolution the City of Santa Clara Housing Authority as a separate entity to fulfill its affordable housing objectives. To complete this transition of responsibility, an Assignment and Assumption Agreement has been prepared whereby the City assigns its rights, interests and obligations according to the Cooperation Agreement to the Housing Authority. By its affirmative action, the Redevelopment Agency acknowledges and consents to this assignment and assumption between the City and the Housing Authority.

**ADVANTAGES AND DISADVANTAGES OF ISSUE:**

Approval of the Assignment and Assumption Agreement will transfer the responsibility and obligations of the affordable housing activities identified in the Cooperation Agreement to the Housing Authority.

**ECONOMIC/FISCAL IMPACT:**

Although not measurable, approving the Cooperation Agreement will have positive impact to the City by placing responsibility for administering affordable housing activities with the Housing Authority.

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**POST MEETING MATERIAL**

Executive Director for Redevelopment Agency Action

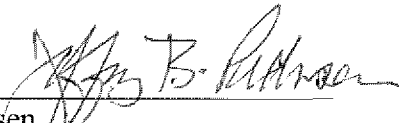
Subject: Adoption of resolution Authorizing the Execution of Assignment and Assumption Agreement Affecting the Cooperation Agreement For Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects to the City of Santa Clara Housing Authority

March 4, 2011

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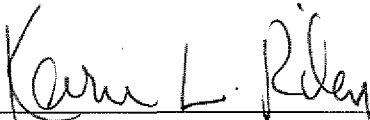
**RECOMMENDATION:**

- That the Agency adopt the Resolution to approve and consent to the Assignment and Assumption Agreement Affecting the Cooperation Agreement For Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects and authorize signature by the Executive Director ; and,
- That the City Council adopt the Resolution to approve the Assignment and Assumption Agreement Affecting the Cooperation Agreement For Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects and authorize signature by the City Manager; and,
- That the Commissioners adopt the Resolution to approve and accept the Assignment and Assumption Agreement Affecting the Cooperation Agreement For Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects and authorize signature by the Executive Director.



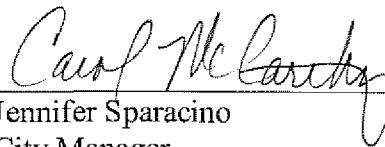
Jeffrey B. Pedersen  
Housing and Community Services Division Manager

APPROVED:



Kevin L. Riley  
Director of Planning and Inspection

APPROVED:



Jennifer Sparacino  
City Manager  
Executive Director for Redevelopment Agency  
Executive Director for Housing Authority



***Documents Related to this Report:***

- 1) *Assignment and Assumption Agreement*
- 2) *RDA, City and HA Resolutions*

**ASSIGNMENT AND ASSUMPTION AGREEMENT  
(Cooperation Agreement for Payment of Costs  
Associated with Certain Redevelopment Agency Funded  
Low and Moderate Income Housing Projects)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Assignment**”) is made and entered into on this 8th day of March, 2011 by and between CITY OF SANTA CLARA (the “**City**”), and the CITY OF SANTA CLARA HOUSING AUTHORITY (the “**Authority**”).

**RECITALS**

A. The City and the Redevelopment Agency for the City of Santa Clara (the “**Agency**”) entered into that certain COOPERATION AGREEMENT FOR PAYMENT OF COSTS ASSOCIATED WITH CERTAIN REDEVELOPMENT AGENCY FUNDED LOW AND MODERATE INCOME HOUSING PROJECTS dated as of February 8, 2011 (the “**Cooperation Agreement**”), a copy of which is on file in the Office of the City Clerk, related to the implementation, completion and financing of certain Projects as more particularly described therein. The Cooperation Agreement provides for the use of Agency income from its housing projects and programs and the Agency’s pledge of net available housing funds (defined therein), including such housing funds as are currently held in the Agency’s cash accounts, to finance the Projects to be carried out by the City. Capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Cooperation Agreement.

B. City and Authority desire to provide, by and through this Assignment, for City to assign to Authority all of its rights, interest and obligations under the Cooperation Agreement, including but not limited to the City’s right to receive payment from the Agency of housing funds currently held in or to be deposited in the Agency’s cash accounts and the City’s right to receive Agency income from its housing projects and programs, and for Authority to accept such assignment and assume all rights, interest and obligations thereunder.

C. Concurrently with this Assignment, the Agency is transferring certain real property to the Authority to allow the Authority to appropriately complete the Projects and other related activities as set forth in the Cooperation Agreement.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

**SECTION 1. ASSIGNMENT AND ASSUMPTION**

(a) City hereby assigns to Authority all of its rights, interest and obligations in and to the Cooperation Agreement, including but not limited to the City’s right to receive payment from the Agency of housing funds currently held in or to be deposited in the Agency’s cash accounts and the City’s right to receive Agency income from its housing projects and programs, and Authority hereby accepts such assignment and assumes performance of all terms, covenants, and

conditions on the part of City's to be performed, occurring, or arising under the Cooperation Agreement, from and after the date hereof with respect to the Projects. Notwithstanding the foregoing, a transfer to the Authority of the real property described in the Purchase and Sale Agreement between the Agency and the State of California Department of General Services dated July 5, 2005 for purposes of implementing the project identified in the Schedule of Projects (Exhibit 1 to the Cooperation Agreement) as "BAREC Senior Housing" shall not occur until the Agency has obtained the approval of the State of California as required by the Purchase and Sale Agreement.

(b) City acknowledges and agrees that by granting this Assignment, the City is not released from any of the City's obligations under or arising from the Cooperation Agreement, which obligations shall remain fully enforceable against the City.

## SECTION 2. SUCCESSORS AND ASSIGNS

This Assignment shall be binding upon and shall inure to the benefit of the City and Authority, their respective heirs, legal and personal representatives, successors, and assigns and the Agency as third party beneficiary hereof. It is the intent of the parties that this Assignment shall survive a full or partial merger of the City, the Agency, and/or the Authority and the Authority shall continue to have all the rights, powers and obligations granted to it by this Assignment.

## SECTION 3. GOVERNING LAW

This Assignment has been entered into, is to be performed entirely within, and shall be governed by and construed in accordance with the laws of the State of California.

## SECTION 4. FURTHER ASSURANCES

Each party hereto covenants and agrees to perform all acts and obligations, and to prepare, execute, and deliver such written agreements, documents, and instruments as may be reasonably necessary to carry out the terms and provisions of this Assignment.

## SECTION 5. SEVERABILITY OF PROVISIONS

If any term or provision of this Assignment, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Assignment shall not be affected thereby and each other term and provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

## SECTION 6. COUNTERPARTS

This Assignment may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The signature pages of one or more

counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Assignment, which, with all attached signature pages, shall be deemed to be an original Assignment.

SECTION 7. WAIVER/AMENDMENT

No breach of any provision hereof may be waived unless in writing. Waiver of any one breach of any provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This Assignment may be amended only by a written agreement executed by the parties.

SECTION 8. AUTHORITY

Each party represents that the person executing this Assignment on behalf of said party has the full authority to do so to bind the party to perform pursuant to the terms and conditions herein.

**IN WITNESS WHEREOF**, City and Authority have executed this Assignment by duly authorized representatives on the date first written hereinabove.

Attest: CITY OF SANTA CLARA

By: \_\_\_\_\_  
Rod Diridon, Jr.  
City Clerk

By: \_\_\_\_\_  
Jennifer Sparacino  
City Manager

Attest: CITY OF SANTA CLARA HOUSING  
AUTHORITY

By: \_\_\_\_\_

By: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Elizabeth H. Silver  
Interim City Attorney

**CONSENT OF AGENCY TO ASSIGNMENT AND ASSUMPTION**

The Agency hereby acknowledges and consents to the above assignment and assumption. Approval thereof by the Agency shall not be construed to relieve or release the City from its duty to comply with any of its obligations in the Cooperation Agreement.

Attest: REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA

By: \_\_\_\_\_  
Rod Diridon, Jr.  
Secretary

By: \_\_\_\_\_  
Jennifer Sparacino  
Executive Director

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Elizabeth H. Silver  
Interim City Attorney

APPROVED AS TO FORM:  
Kane Ballmer & Berkman

By: \_\_\_\_\_  
Agency Special Counsel

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF SANTA CLARA,  
CALIFORNIA, APPROVING AN ASSIGNMENT AND  
ASSUMPTION AGREEMENT RELATED TO THAT  
CERTAIN COOPERATION AGREEMENT FOR  
PAYMENT OF COSTS ASSOCIATED WITH CERTAIN  
REDEVELOPMENT AGENCY FUNDED LOW AND  
MODERATE INCOME HOUSING PROJECTS**

**RECITALS**

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

**WHEREAS**, the City Council of the City of Santa Clara (the “City Council”) adopted the redevelopment plans (the “Redevelopment Plans”) for the Bayshore North Project on December 28, 1973 by Ordinance No. 1283, amended by the City Council by Ordinance No. 1347 adopted on March 1, 1977 (Amendments No. 1-8), amended by the City Council by Ordinance No. 1489 adopted on January 24, 1984 (Amendments No. 9-13), amended by the City Council by Ordinance No.1535 adopted on October 22, 1985 (Amendments No. 14-15), amended by the City Council by Ordinance No.1560 adopted on November 25, 1986 (Health and Safety Code Section 33333.4 Time Limit Amendment), amended by the City Council by Ordinance No. 1614 adopted on May 15, 1990 (Amendment No. 16), amended by the City Council by Ordinance No.1667 adopted on December 6, 1994 (AB 1290 Time Limit Amendment), amended by the City Council by Ordinance No. 1704 on October 21, 1997 (Amendment No. 17), amended by the City Council by Ordinance No. 1716 adopted on October 13, 1998 (Amendment No. 18), amended by the City Council by Ordinance No. 1743 adopted on October 26, 1999 (Amendment No. 19), amended by the City Council by Ordinance No. 1792 adopted on June 29, 2004 (ERAF 1-Year Extension Amendment), and amended by the City Council by Ordinance No. 1816 adopted on April 17, 2007 (ERAF 2-

year Extension Amendment), amended by the City Council by Ordinance No. 1855 adopted on March 30, 2010 (Amendment No. 20), amended by the City Council by Ordinance No. 1866 adopted on September 21, 2010 (Amendment No. 21), and amended by City Council by Ordinance No. 1869 adopted on December 14, 2010 (Amendment No. 22), and the University Project on February 3, 1961 by Ordinance No. 972, and amended January 25, 1963 by Ordinance No. 1050 (Amendment No. 1), amended on February 23, 1965 by Ordinance No. 1113 (Amendment No. 2), amended November 25, 1986 adopting a Health and Safety Code Section 33333.4 Time Limit Amendment, amended on December 6, 1994 by Ordinance 1666 adopting an AB 1290 Time Limit Amendment, amended on June 29, 2004 by Ordinance No. 1791 adopting an ERAF 1-Year Extension Amendment, amended on April 17, 2007 by Ordinance No. 1817 adopting an ERAF 2-Year Extension Amendment, amended on June 19, 2007 by Ordinance No. 1820 adopting Eminent Domain Language, and adopting on December 14, 2010 by Ordinance No. 1870 (Amendment No. 3) (collectively, the “Project Areas”), which results in the allocation of taxes from the Project Areas to the Redevelopment Agency for the City of Santa Clara (the “Agency”) for purposes of redevelopment;

**WHEREAS**, pursuant to Sections 33220 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) the Agency and the City of Santa Clara (the “City”) entered into that certain Cooperation Agreement for Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects dated as of February 8, 2011 (the “Cooperation Agreement”), a copy of which is on file in the Office of the City Clerk, related to the implementation, completion and financing of certain Projects as more particularly described therein. The Cooperation Agreement provides for the Agency’s pledge of net available housing funds (defined therein) to finance



the Projects to be carried out by the City;

**WHEREAS**, the City of Santa Clara Housing Authority (the “Authority”) was created by the City Council pursuant to City Council Resolution No. 11-7827 on February 22, 2011 and in accordance with California’s Housing Authorities Law (Health and Safety Code Sections 34200, et seq.) vesting the Authority with all the rights, powers, duties, privileges and immunities established by the Housing Authorities Law;

**WHEREAS**, the Agency and the City have prepared an Assignment and Assumption Agreement (the “Assignment”) to provide for City to assign to Authority all of its rights, interest and obligations under the Cooperation Agreement and for Authority to accept such assignment and assume all rights, interest and obligations thereunder;

**WHEREAS**, it is in the best interests of the City and for the common benefit of residents, employees, business tenants and property owners within the Project Areas and the City as a whole for the Projects to be developed and constructed pursuant to the Assignment;

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

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

1. The City has received and heard all oral and written objections to the proposed assignment by the City to the Authority for the Projects as described in the Cooperation Agreement, and to other matters pertaining to this transaction, and all such oral and written objections are hereby overruled.
2. The City hereby finds and determines that the foregoing recitals are true and correct.
3. The City hereby consents to the assignment by the City to the Authority of the Cooperation Agreement.
5. The Assignment in substantially the form presented to the City is hereby approved, a

copy of which is on file with the City Clerk.

6. The City Manager, or designee, is hereby authorized to execute the Assignment on behalf of the City, together with such non-substantive changes and amendments as may be approved by the City Manager and Agency Special Counsel.

7. The City Manager, or designee, is hereby authorized, on behalf of the City, to sign all documents necessary and appropriate to carry out and implement the Assignment, and to administer the City's obligations, responsibilities and duties to be performed under the Assignment.

8. The City hereby finds and determines that pursuant to Section 15378(b)(4) of the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq), approval of the Assignment is not a project subject to the California Environmental Quality Act ("CEQA") because the Assignment consists of the creation of a governmental funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

9. 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 Redevelopment Agency of 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.

10. 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:  
None

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