

# AGENDA

**TEHACHAPI CITY COUNCIL SPECIAL MEETING,  
TEHACHAPI REDEVELOPMENT AGENCY SPECIAL MEETING,  
TEHACHAPI PUBLIC FINANCING AUTHORITY SPECIAL MEETING, AND  
TEHACHAPI CITY FINANCING CORPORATION SPECIAL MEETING**

**CITY HALL  
115 SOUTH ROBINSON STREET  
TUESDAY, JANUARY 10, 2012 - 5:30 P.M.**

Persons desiring disability-related accommodations should contact the City Clerk no later than ten days prior to the need for the accommodation. A copy of any writing that is a public record relating to an open session of this meeting is available at City Hall, 115 South Robinson Street, Tehachapi, California.

## CALL TO ORDER

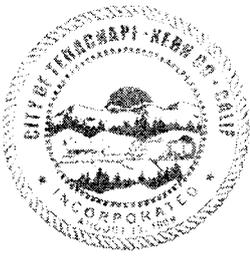
## ROLL CALL

## PLEDGE TO FLAG

## BUSINESS

1. Audience comments on agenda items.
2. This agenda item is to address an outcome of the California Supreme Court's decision in *California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861), the litigation challenging AB X1 26 ("AB 26) and AB X1 27("AB 27"). The Court largely upheld AB 26, which provides for the windup and dissolution of redevelopment agencies, and invalidated in its entirety AB 27, which provides for an alternative voluntary redevelopment program – **ADOPT RESOLUTION 02-12 MAKING AN ELECTION IN CONNECTION WITH SERVING AS A SUCCESSOR AGENCY UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH**
3. To facilitate the implementation of AB 1X 26, City staff has contacted the law firm of Richards Watson Gershon to provide the City legal advice - **APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT BETWEEN RICHARDS WATSON GERSHON AND THE CITY OF TEHACHAPI TO PROVIDE LEGAL ADVICE TO THE CITY AND ITS REDEVELOPMENT AGENCY REGARDING AB 1X 26**

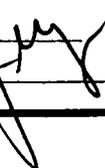
## ADJOURNMENT



# COUNCIL REPORTS

**AGENDA SECTION: COMMUNITY DEVELOPMENT**

**MEETING DATE: JANUARY 10, 2012**

APPROVED
DEPARTMENT HEAD: 
CITY MANAGER: 

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**TO: HONORABLE MAYOR GRIMES AND COUNCIL MEMBERS**

**FROM: DAVID A. JAMES, COMMUNITY DEVELOPMENT DIRECTOR**

**DATE: January 9, 2012**

**SUBJECT: ADOPTION OF A RESOLUTION ELECTING FOR THE CITY OF TEHACHAPI TO SERVE AS SUCCESSOR AGENCY PURSUANT TO THE COURTS UPHOLDING AB X1 26**

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## **BACKGROUND:**

This agenda item is to address the next steps, if you will, relative to the outcome of the California Supreme Court's decision in *California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861), the litigation challenging AB X1 26 (AB 26) and AB X1 27 ("AB 27"). As the Council is aware the Court largely upheld AB 26, which provides for the winding down and dissolution of redevelopment agencies, and invalidated in its entirety AB 27, which provided for an alternative voluntary redevelopment program commonly referred to as the "opt in" alternative. The Court held that AB 26 may be severed from AB 27 and enforced independently. As the Council is also aware this decision represented a worst case scenario in summary, as a result of the decision, all redevelopment agencies will be dissolved as of February 1, 2012, and cities do not have the option of making remittance payments to enable the continued operation of redevelopment agencies. Accordingly, a successor agency will be designated for each dissolved redevelopment agency and charged with administering the wind-down of the dissolved redevelopment agency. To that end the attached resolution designates the City to serve as the successor agency for the Redevelopment Agency.

AB 26, which was signed by the Governor of California on June, 29, 2011, added Parts 1.8 and 1.85 to the Community Redevelopment Law. Part 1.8 immediately suspended most redevelopment agency activities. Part 1.85 provides that on October 1, 2011 (extended to February 1, 2012 by the Court), all existing redevelopment agencies and redevelopment agency components of community development agencies are dissolved, and successor agencies are designated as successor entities to the former redevelopment agencies. Except for those provisions of the Redevelopment Law that are repealed, restricted, or revised pursuant to AB 26, all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies under the Redevelopment Law, are vested in the successor agencies. AB 26 imposes numerous requirements on the successor agencies, including continuing to make payments due for enforceable obligations of the former agency, remit unencumbered balances of the former agency's funds to the county auditor-controller for distribution to the taxing entities, and dispose of assets and properties of the former

agency as directed by the oversight board. AB 26, as revised by the Court, requires a city which elects not to serve as a successor agency under Part 1.85 to file a copy of a duly authorized resolution of the city council to that effect with the county auditor-controller no later than January 13, 2012. AB 26 is ambiguous with respect to the timing and the need for a city council to adopt and file a resolution with the county auditor-controller if the city council elects to serve as a successor agency.

**FISCAL IMPACT:**

The successor agency will be entitled to an annual administrative cost allowance of not less than \$250,000 per year, provided that the allowance will exclude any administrative costs that can be paid from bond proceeds or sources other than property tax, and provided that the amount is subject to reduction if there is a shortfall of funds available to make payments to taxing entities and to pay debt service on enforceable obligations. Therefore, to be on the safe side staff is of the opinion that the City should maintain the January 13, 2012 date.

**RECOMMENDATION:**

Staff recommends to the City Council to adopt Resolution No. 02-12 electing for the City to serve as the successor agency prior to January 13, 2012 to avoid any uncertainties and ambiguities associated with the provisions of AB26 and direct the City Clerk to file a certified copy of Resolution 02-12 with the County of Kern Auditor-Controller.

**RESOLUTION NO. 02-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEHACHAPI MAKING AN ELECTION IN CONNECTION WITH SERVING AS A SUCCESSOR AGENCY UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH**

**RECITALS:**

A. The Tehachapi Redevelopment Agency (the "Agency") is a redevelopment agency in the City of Tehachapi (the "City"), created pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the "Redevelopment Law").

B. The City Council of the City (the "City Council") has adopted a redevelopment plan for a redevelopment project area, and from time to time, the City Council has amended such redevelopment plan.

C. AB X1 26 and AB X1 27 were signed by the Governor of California on June 29, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code.

D. The California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California alleging that AB X1 26 and AB X1 27 are unconstitutional. On August 11, 2011, the Supreme Court issued a stay order, which was subsequently modified on August 17, 2011. Pursuant to the modified stay order, the Supreme Court granted a partial stay of AB X1 26 and AB X1 27.

E. On December 29, 2011, the Supreme Court issued its opinion in *California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861) largely upholding AB X1 26, invalidating AB X1 27, and holding that AB X1 26 may be severed from AB X1 27 and enforced independently.

F. Accordingly, the City Council desires to adopt this resolution electing for the City to serve as the successor agency to the Agency under Part 1.85.

**NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:**

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. This Resolution is adopted pursuant to Health and Safety Code Section 34173.

Section 3. The City Council hereby elects for the City to serve as a successor agency under Part 1.85.

Section 4. The City Clerk is hereby authorized and directed to file a certified copy of this Resolution with the County Auditor-Controller.

Section 5. The officers and staff of the City are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution, and any such actions previously taken by such officers are hereby ratified and confirmed.

Section 6. The adoption of this Resolution is not intended to and shall not constitute a waiver by the City of any right the City may have to challenge the legality of all or any portion of AB X1 26 through administrative or judicial proceedings.

Section 7. This Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines. The City Council has determined that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b) (5)).

**PASSED AND ADOPTED** at a special meeting of the City Council of the City of Tehachapi this 10<sup>th</sup> day of January, 2012 by the following vote:

AYES: COUNCIL MEMBERS: \_\_\_\_\_

NOES: COUNCIL MEMBERS: \_\_\_\_\_

ABSENT: COUNCIL MEMBERS: \_\_\_\_\_

ABSTAIN: COUNCIL MEMBERS: \_\_\_\_\_

\_\_\_\_\_  
ED GRIMES, Mayor  
of the City of Tehachapi, California

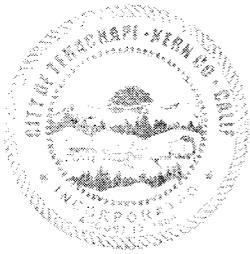
ATTEST:

\_\_\_\_\_  
DENISE JONES, CMC  
City Clerk of the City of Tehachapi, California

I hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Tehachapi at a special meeting thereof held on January 10, 2012.

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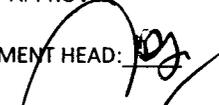
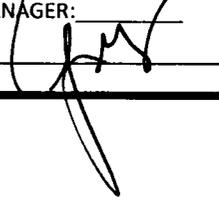
DENISE JONES, CMC  
City Clerk of the City of Tehachapi, California



# COUNCIL REPORTS

AGENDA SECTION: COMMUNITY DEVELOPMENT

MEETING DATE: JANUARY 10, 2012

APPROVED
DEPARTMENT HEAD: 
CITY MANAGER: 

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**TO:** HONORABLE MAYOR GRIMES AND COUNCIL MEMBERS

**FROM:** DAVID A. JAMES, COMMUNITY DEVELOPMENT DIRECTOR

**DATE:** January 9, 2012

**SUBJECT:** AGREEMENT BETWEEN CITY OF TEHACHAPI AND RICHARDS WATSON GERSHON ATTORNEY'S AT LAW TO ASSIST AND ADVISE THE CITY IN MATTERS ASSOCIATED WITH AB1 X 26

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## BACKGROUND:

As the City Council is aware, the courts upholding AB1 X 26 (AB26) will obligate the City of Tehachapi as the successor agency with various tasks previously vested with the Tehachapi Redevelopment Agency. The process of winding down and dissolving the agency is anticipated to be relatively complicated particularly given the ambiguous of AB 26. Therefore staff is of the opinion that we (the City) should retain special legal counsel in this regard. As the Council may recall the above referenced law firm was retained to assist the City with various redevelopment matters such as the transfer of assets early on in the Governor's budget process and associated attempts by the State to eliminate redevelopment.

## RECOMMENDATION:

Staff recommends retaining the Law Firm of Richards Watson and Gershon relative to assisting the City of Tehachapi in the City role as the successor agency to the Tehachapi Redevelopment Agency and the dissolution of said agency pursuant to AB 26 and to execute the agreement enclosed herein as Attachment A.



**RICHARDS | WATSON | GERSON**

ATTORNEYS AT LAW – A PROFESSIONAL CORPORATION

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Telephone 213.626.8484 Facsimile 213.626.0078

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GLENN R. WATSON  
(1917–2010)

HARRY L. GERSON  
(1922–2007)

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MARK L. LAMKEN  
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JIM R. KARPIAK  
TERESA HO-URANO

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orange county office  
TELEPHONE 714.990.0901

January 5, 2012

**VIA FACSIMILE AND U.S. MAIL**

Thomas F. Schroeter, Esq.  
City Attorney  
City of Tehachapi  
254 H Street  
Bakersfield, California 93304

Dear Mr. Schroeter:

You have asked us to provide legal advice to the City of Tehachapi and its Redevelopment Agency regarding AB 1X 26. We write to confirm the terms upon which the firm will provide legal services for this matter, and the basis upon which we will bill for our services and expenses.

Our time will be charged at a blended hourly rate of \$250 per hour for all attorneys working on the matter.

In addition, we will bill for costs in connection with our representation. Such costs include copying documents (\$.15 per page), telecommunications, court fees, litigation costs, messenger and delivery services, and other similar costs. Such costs frequently are billed to the firm from third-party vendors, and there sometimes will be a delay between the time such costs are incurred and the time when they appear on your bill.

We will bill the City for fees on a monthly basis. When a bill is to be sent, we will review it before it is issued to ensure that the amount charged is appropriate and accurately reflects the services rendered.

We rarely have fee disputes with clients. Nevertheless, you should be aware that the City is entitled to require that any fee dispute be resolved through the mandatory fee arbitration provisions of the California Business and Professions Code. One such program is operated under the auspices of the Los Angeles County Bar Association. Many other local bar associations have similar programs.

In the event that the City chooses not to utilize the County Bar arbitration procedures, the City agrees that all fee disputes between us shall be submitted to binding arbitration in Los Angeles to be conducted by the American Arbitration Association, in accordance with its commercial arbitration rules.

**ATTACHMENT A**

Thomas F. Schroeter, Esq.  
January 5, 2011  
Page 2

In any dispute concerning billing for services rendered, the prevailing party, as defined in California Code of Civil Procedure section 1032, will be entitled to recover its reasonable attorney's fees and costs.

The City has the right to terminate our representation at any time. We have the same right, subject to our obligation to provide the City with reasonable notice to arrange alternative representation. In either circumstance, the City agrees to secure new counsel to represent it as quickly as possible and to cooperate fully in the substitution of the new counsel as counsel of record in any litigation in which we may be involved. If the City elects to terminate the firm, we will be paid all fees and costs incurred prior to the termination within 30 days after delivery of a final bill for services.

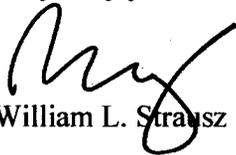
We are also required to inform you that we currently maintain professional liability insurance.

Our legal relationship and the terms of this agreement will be governed by the substantive laws of the State of California.

We have enclosed a duplicate original of this letter which we request be signed and returned. We have enclosed a return envelope for your convenience.

We look forward to representing the City in this matter, and we thank you for the opportunity.

Very truly yours,

  
William L. Strausz

CITY OF TEHACHAPI

Date: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_