



City Manager's Weekly Update

Week ending August 12, 2011

UPCOMING MEETINGS

- 9/6** Shoreline-Marina
Committee Meeting
4:00 p.m.,
Sister Cities Gallery
- 9/6** City Council Meeting,
7:00 p.m.,
Council Chambers
- 9/8** Business and Housing
Committee Meeting,
4:00 p.m.,
Sister Cities Gallery
- 9/9** Airport Committee
Meeting, 9:00 a.m.,
Sister Cities Gallery
- 9/12** City Council/SLUSD
Joint Work Session,
7:00 p.m.,
Main Library
- 9/19** City Council Meeting,
7:00 p.m.,
Council Chambers
- 9/26** City Council Work
Session, 7:00 p.m.,
Location TBD

To: City Council
From: Lianne Marshall, Interim City Manager

Kudos to the Building Division in Community Development. In the most recent issue of its *Service Matters* newsletter, the Association of Bay Area Governments discusses its "Regional Disaster Resilience Action Plan Initiative" and calls out the City's Building Division for its outreach efforts to educate the community about the importance of seismically strengthening homes and businesses. It is wonderful for our City to receive regional recognition in this manner. A link to the article is listed below in the News Articles section.

Mark Your Calendar

Summer Reading Program Carnival (reminder)

- Saturday, **August 13, 10:00 a.m. to 2:00 p.m.**, Main Library Plaza
- The San Leandro Public Library Summer Reading Program Carnival will be held this Saturday. The carnival is for children who have completed the summer reading program and their families.
- The event is sponsored by the Friends of the San Leandro Library.

Police Department Swearing In Ceremony

- Monday, **August 15, 4:00 p.m.**, Helen Lawrence South Offices Conference Room
- Please join us for the swearing in ceremony of the six newest members of SLPD on August 15. No RSVP necessary.

Council Follow-Up

MacArthur Boulevard Street Lights

- As reported last week, during the night of August 4, thieves removed the underground wires for the street lights along MacArthur Boulevard, between Dutton and Estudillo Avenues. As a result, almost all of the street lighting along that long block had lost power.
- The Public Works Department has awarded a contract to St. Francis Electric to replace the wiring and restore lighting to this important commercial area. In addition, the department has ordered locking utility box covers in an effort to thwart further theft attempts. The locking covers are anticipated to arrive early next week and St. Francis will begin work once the covers are in hand. Once the locking covers are installed, it will take several days for the lights to be working again.
- The cost for replacing the wiring is \$16,000.

Council Information

San Leandro RDA Appeals ABx1 27 Remittance Amount to State Department of Finance

- In the event that the California Redevelopment Association's (CRA) case against the State regarding the legality of AB x1 26/27 is not successful, the City submitted documentation to appeal the amount of the ransom payment (see item 1 under Correspondence from Other Agencies).
- On August 1, the Department of Finance released the 2011-12 remittance amounts for redevelopment agencies that opt to participate in the Alternative Voluntary Redevelopment Program pursuant to Assembly Bill x1 27. The City's payment was originally estimated to be roughly \$5.1m; however, refinements to the allocation methodology reduced the amount to \$4.8m.
- ABx1 27 states that a city may appeal the amount of remittance by August 15 if the amount of tax increment necessary to pay for tax allocation bonds and interest payments has increased by 10% or more over the 2008-09 data used by the Department of Finance to determine the payment amounts. For San Leandro, the cost of these payments has increased by over 20% due to the issuance of bonds in 2008.
- Staff has submitted an appeal to the Department of Finance documenting this change and a decision is expected by September 15. If the appeal is granted in full, staff estimates that the Agency's payment obligation could decrease by more than \$200,000 in 2011-12 and by approximately \$50,000 each year thereafter. In that case, the City's payments would be approximately \$4.6m in 2011-12 and just under \$1.1m in the future.

Marina Park Group Picnic Area Renovations – Public Meeting

- Recreation and Human Services Department staff is seeking feedback regarding renovations of the Group Picnic Areas at Marina Park: Seagull, Mallard and Otter. Staff encourages residents and users of Marina Park to come to the Marina Park Heron group picnic area on Saturday, August 20, at 11:00 a.m. for a public meeting to complete a survey and provide feedback and suggest priorities for the renovations.
- For those that cannot attend the public meeting, the survey can be found [here](#). Residents can also provide feedback by emailing citycomments@sanleandro.org or contact Carolyn Knudtson at 577-3462.

Fargo Senior Center to Apply for State Housing and Community Development (HCD) Funding (notice attached)

- The nonprofit housing developer Christian Church Homes of Northern California (CCH) has applied for State Multifamily Housing Program (MHP) funding to undertake needed renovations to Fargo Senior Center located at 868 Fargo Avenue. Fargo Senior Center has 75 studio, one-bedroom and two-bedroom units that have been affordable to very low-income seniors for decades. CCH's application does not include any subsidy from the City or Redevelopment Agency.
- Due to the aging of the apartment complex, which was built in 1971, CCH has applied for just over \$5 million in funding from the State's MHP Program for needed renovations to upgrade and modernize the facility. The MHP application guidelines require all applicants to notify the applicable local jurisdiction of its intent to apply for funding (see attached letter). The proposed renovations will ensure that Fargo Senior Center remains a long-term, affordable and quality housing complex for the city's senior population.

Calendar Year 2010 Solid Waste Disposal Rate (staff report attached)

- In 2008, the State of California adopted the Disposal Measurement System Act (SB 1016). The law builds on existing diversion requirements and simplifies the reporting process by using a disposal-based rate measurement. Starting with the 2007 reporting year, the City no longer reports a diversion rate (e.g. 62%). Instead, the 50% diversion requirement has been converted into a per capita disposal rate requirement. For calendar year 2010, the City of San Leandro is reporting a per capita disposal rate of 5.4 pounds per person per day. This rate is well below the 8.7 pounds per person per day requirement set under the new disposal reporting system.
- The City will continue to implement new and effective waste reduction, reuse, recycling and composting programs in an effort to exceed the goal each reporting year.

Preda Street Pipe Bridges Upgrade Project – Work on Saturdays (staff report and notice attached)

- Two parallel sanitary sewer pipes supported by a steel bridge structure cross San Leandro Creek near the Cherrywood Development to Preda Street near the Woodcreek Development are to be seismically retrofitted.
- After construction commenced, it was determined that the existing paint on the steel bridge trusses contained low levels of lead, requiring specialized abatement. This unforeseen abatement effort added to the construction schedule, projecting completion of the work to beyond October 15, which may require the contractor to work on several Saturdays.

News Articles of Interest

Building Division Recognized in ABAG Newsletter

- In the July-August 2011 issue of the Association of Bay Area Government's *Service Matters* newsletter, the City's Community Development Department Building Division was recognized as a model of outreach to the community for public education on ways to improve seismic strengthening of homes and businesses. The link to the newsletter is below; see page 2:
<http://www.abag.ca.gov/abag/overview/pub/newsletter/posts/ABAG%20SM%20July-Aug2010.pdf>

Business News

Businesses in the News (article attached)

- Renovation has begun on the **Nissan, Hyundai and Kia** car dealerships at the Marina Square Auto Center. The most extensive construction will be performed at the Nissan dealership, located at 1152 Marina Boulevard. Aluminum paneling will highlight the main building's exterior, creating a modern, performance-driven image that has become a trademark of Nissan's dealerships. The dealerships will remain open during construction.
- "We are very excited about the remodeling of the dealerships," said the Marina Auto Center's President and CEO, George Assoun. "We are committed to providing our customers with the best automotive experience possible and our upgraded facilities will serve to strengthen that commitment."
- The article can also be viewed at the following link:
<http://www.sfgate.com/cgi-bin/article.cgi?f=/g/a/2011/08/08/prweb8704261.DTL#ixzz1Ue8LNKKD>

Correspondence from Other Agencies

Supreme Court Issues Partial Stay and Agrees to Hear Redevelopment Petition on Expedited Basis (press releases and other information attached)

- The California Supreme Court agreed to take the California Redevelopment Association (CRA) petition which challenges the constitutionality of AB x1 26/27, the recent budget bills that eliminate redevelopment agencies unless they agree to make ransom payments to the State.
- The Supreme Court granted the requested stay which allows redevelopment agencies to continue operations consistent with the Enforceable Obligations schedule adopted by the City Council on July 18, 2011. The City's Redevelopment Agency can continue to operate and honor current contracts, but it is precluded from issuing new debt, entering into or amending contracts, etc.
- It appears that any action by cities to carry out the provisions in AB x1 27 related to the opt-in procedures which reestablish the Redevelopment Agency are on hold. This impacts the City's plan to opt-in on September 6, 2011.
- The case is being expedited by the Supreme Court and a decision is expected before January 15, 2012, the date the first ransom payment would be due to the State.
- Meyers Nave, CRA and other law firms are still analyzing the details of the Supreme Court action. Additional information will be forthcoming.

League of California Cities (article attached)

- *Legislature Scheduled to Return August 15 and Take Action on Outstanding Bills Before Session Ends on September 9*

San Leandro Unified School District (reminder)

- “Showcase in San Leandro,” a benefit for the new Arts Education Center and 550-Seat Theater at San Leandro High School, will be held tomorrow, August 13. To order tickets, please contact Jeni Engler (510-352-8473) or by email: jeniengler@sbcglobal.net.

City of Berkeley and UC Berkeley

- The City of Berkeley and UC Berkeley are hosting the 5th Annual Town and Gown Conference this October 6 and 7 in Berkeley. Keynote speakers include Lt. Governor Gavin Newsom, former U.S. Secretary of Labor Robert Reich, Futurist Paul Saffo and Mark Hertsgaard, author of *HOT, Living the Next 50 Years on Earth*. For registration information, go to towngownca.com.



Christian Church Homes of Northern California

303 Hegenberger Road, Suite 201, Oakland, California 94621-1419
(510) 632-6712 www.cchnc.org Fax (510) 632-6755

August 9, 2011

The Honorable Mayor Stephen Cassidy and City Council
835 East 14th Street
San Leandro, CA 94577

RE: HCD Multifamily Housing Program Funding Application for Fargo Senior Center at 868 Fargo Avenue, San Leandro

Honorable Mayor Stephen Cassidy and members of the City Council,

As required by the California Department of Housing and Community Development's (HCD) Multifamily Housing Program (MHP) funding application, this letter is to serve as a notice to the City Council of San Leandro that Christian Church Homes (CCH) is submitting a funding application for \$5,205,446 through the California Department of Housing and Community Development Multifamily Housing Program (MHP) to rehabilitate an existing 75-unit low-income development, Fargo Senior Center, located at 868 Fargo Avenue in San Leandro.

CCH is a non-profit corporation formed in 1961 and is devoted to providing affordable quality housing in caring communities. To this end CCH has been a developer and manager of senior housing throughout the country. We have developed 28 properties and currently manage 60 properties, including Fargo Senior Center.

Fargo Senior Center was constructed in the early 1970's as an ecumenical effort between Temple Beth Sholom and Christ Presbyterian Church, and has been managed by Christian Church Homes since 2001. The primary funding mechanism for construction of this site in 1971 was the HUD Section 236 program which provided a partial Section 8 subsidy to 29 of the 75 total units onsite and enough capital to construct Fargo's four residential buildings.

The development consists of studio, one and two-bedroom units restricted to households earning 50 percent of AMI or less in four garden style residential buildings connected by a covered breezeways and one elevator in the main building. The financing for the rehabilitation of Fargo Senior Center includes MHP as well as Low Income Housing Tax Credits (LIHTC), tax-exempt bond financing, and funding from Affordable Housing Program (AHP).

The scope of work for the Fargo Senior Center calls for a complete rehab of the existing building and building systems. The building is 40 years old and has not had any significant improvements since. The scope includes upgrading the major building systems such as heating, electrical, and the addition of air conditioning. The exterior facades will be redesigned to give the building a more modern look and

improve the durability of the buildings. All existing windows will be replaced with dual-glazed, low-e vinyl windows and exterior balconies will be replaced. All of the interior units will undergo an asbestos abatement (in walls that will either be cut into, removed, or relocated) and have new updated kitchens, new flooring, new plumbing fixtures and 60% of the units will have updated bathrooms.

We are excited by the opportunity to rehabilitate this great facility and provide our seniors a more modern, sustainable, and affordable place to call home. We are also glad to contribute to the City San Leandro's efforts to preserve affordable housing to low-income seniors.

If you need additional information or require further details about the project, please contact project Manager Eden Negash at (510) 746-4121.

Sincerely,



Don Stump
President & CEO

CC

Council Member Ursula Reed
Council Member Diana Souza
Council Member Joyce Starosciak
Council Member Pauline Cutter
Council Member Jim Prola
Council Member Michael Gregory
Lianne Marshall, Interim City Manager
Luke Sims, Community Development Director

Quality Housing in Caring Communities Since 1961

CITY OF SAN LEANDRO

STAFF REPORT

Date: August 8, 2011

TO: Lianne Marshall, Interim City Manager
City Manager Office

From: Michael Bakaldin, Public Works Director

By: Liz Jimenez, Solid Waste & Recycling Specialist

Subject: CALENDAR YEAR 2010 SOLID WASTE DISPOSAL RATE

SUMMARY AND RECOMMENDATION

In 2008, the State of California adopted the Disposal Measurement System Act (SB 1016). The law builds on existing diversion requirements and simplifies the reporting process by using a disposal-based rate measurement. Starting with the 2007 reporting year, the City no longer reports a diversion rate (e.g. 62%). Instead, the 50% diversion requirement has been converted into a per capita disposal rate requirement. For calendar year 2010, the City of San Leandro is reporting a per capita disposal rate of 5.4 pounds per person per day. This rate is well below the 8.7 pounds per person per day requirement set under the new disposal reporting system. This report is for information only, and no action is required.

BACKGROUND AND DISCUSSION

The California Integrated Waste Management Act of 1989 (AB 939) requires California cities and counties to divert waste from landfills by implementing source reduction, reuse and recycling activities. Cities and counties must establish a base year disposal figure (from 1990 or later) and demonstrate they have diverted 50% or more of base year disposal for the reporting year. The City exceeded the 50% waste diversion mandate each year from 2000 to 2006.

In 2008, the State of California adopted SB 1016, which uses a per capita disposal rate equivalent to the 50% diversion requirement for the 2007 reporting year and beyond. The disposal rate is calculated by converting the City's base year landfill disposal, adjusting it for economic and population factors for four reporting years (2003 to 2006), and averaging the result into a per capita disposal rate target. The City of San Leandro's disposal rate target is 8.7 pounds per person per day. The City's actual disposal for 2010 is 5.4 pounds per person per day.

The advantage of the new system is that it simplifies the process by using only the City's population and disposal to determine the rate. The former system relied on a set of complex adjustment factors that delayed the process six months or more. By focusing on actual disposal, the City and the California Department of Resources Recycling and Recovery (CalRecycle) can place their focus and resources on programs that divert solid waste from landfills and emphasize programs that reduce, reuse and recycle.

The disadvantage of the new system is that the disposal rate calculation will not accurately translate into an equivalent diversion rate percentage for the given reporting year. In addition, it is no longer appropriate to compare data across jurisdictions because the disposal rate target is unique to each jurisdiction. Therefore, a jurisdiction will be evaluated on its own achievement rather than a statewide standard.

CONCLUSION

The City of San Leandro has demonstrated compliance with AB 939 and SB 1016 by achieving 5.4 pounds per person per day disposal rate in reporting year 2010. This disposal rate is well below the City's target goal of 8.7 pounds per person per day as set by CalRecycle. The City will continue to implement new and effective waste reduction, reuse, recycling and composting programs in an effort to exceed the goal each reporting year.



CITY OF SAN LEANDRO

MEMORANDUM

DATE: August 9, 2011

TO: Lianne Marshall, Interim City Manager
City Manager Office

FROM: Uche Udemezue, Director
Engineering and Transportation Department

BY: Austine Osakwe, Senior Engineer
Engineering and Transportation Department

SUBJECT: PREDA STREET PIPE BRIDGES UPGRADE PROJECT – WORK ON SATURDAYS

SUMMARY AND RECOMMENDATION

Two parallel sanitary sewer pipes supported by a steel bridge structure cross San Leandro Creek near the Cherrywood Development to Preda Street near the Woodcreek Development are to be seismically retrofitted. Permits from California Department of Fish & Game (CDFG) and Alameda County Flood Control and Water Conservation Department were obtained to access the sewer facility in the creek area to allow for seismic improvements to the structure. The permits limit work to be completed during the dry season (through October 15, 2011). Additional work associated with the presence of lead containing paint will require Saturday construction work to meet the permit time limits.

The attached letter is being sent to the two adjacent homeowner associations informing them of this planned work. This is for information only, and no action is required.

BACKGROUND AND DISCUSSION

The project involves the seismic retrofit of both the two (2) sanitary sewer pipelines and the supporting bridges across the San Leandro Creek. Sections of the bridges damaged by trees will be repaired and certain structural members will be stiffened to resist major seismic movements. Flexible couplings will be installed on the sanitary sewer lines, as the pipelines leave the bridges to allow for ease movements, in case of seismic movements. The pipes will also be striped to bridges to allow for a unidirectional movement.

After construction commenced, it was determined that the existing paint on the steel bridge trusses contained low levels of lead, requiring specialized abatement. This unforeseen abatement effort added to the construction schedule, projecting completion of the work to beyond October 15th. Acceleration of the construction to meet the October 15th deadline can be achieved, but will require the contractor to work on several Saturdays.

A request for an extension to the permit period has been submitted to CDFG for their consideration. If a favorable response is received, the need to work on Saturdays will be reduced or eliminated.

City of San Leandro

Civic Center, 835 E. 14th Street
San Leandro, California 94577



August 9, 2011

Ken Toy
Woodcreek Homeowners Association
c/o Helen Allison
Peachtree Community Association Services
30100 Mission Boulevard
Hayward, CA 94544-7249

RE: Preda Street Pipe Bridges Upgrade Project – Notice of Work on Saturdays

Dear Mr. Toy:

This letter is to inform you that the project encountered an unforeseen condition requiring the necessity to work on some Saturdays to complete the work within regulatory limitations. This letter is also copied to nearby Alder Creek Circle properties (addresses listed below); please share this information with other members of the association as you deem necessary.

The City is currently seismically upgrading a pipe bridge which supports two sanitary sewer lines over the San Leandro Creek. Because of the environmentally sensitive creek area, work is permitted only during the dry season and must be completed by October 15, 2011. After construction commenced, low levels of lead in the existing bridge paint was discovered, requiring specialized abatement. This abatement work has added to the construction schedule, projecting completion of the work beyond October 15th. Acceleration of the work to meet the October 15th deadline can be achieved, but will require the contractor to work on several Saturdays. The exact schedule has not yet been determined.

We have submitted an extension request to the permit period (October 15) to the regulatory agency for their consideration. If we receive a favorable response, the need to work on Saturdays will be reduced or eliminated.

Thank you for your understanding and cooperation. Please call me at (510) 577-3494 if needed.

Sincerely,

John O'Driscoll, Associate Engineer
Engineering and Transportation Department

cc: 1181, 1286, 1288, 1290, 1292, 1296 & 1298 Alder Creek Circle

Silicon Valley Commercial Contractor Hallmark Begins Upgrades to Marina Square Auto Center

SFGate.com

San Leandro, CA (PRWEB) August 08, 2011

Hallmark Construction announced this week that it has begun renovating three buildings at the Marina Square Auto Center, a premier group of auto dealers that includes San Leandro Nissan, Hyundai and Kia as well as an expansive parts and service center. The dealerships will remain open during construction, and the renovation presents a great opportunity to find a deal.



"We've completed more than 100 dealership projects and we know how to not only keep the dealerships open, but also how to make sure the customer's car-buying experience will not be interrupted," said Pat Taggart, a project manager at Hallmark.

The most extensive construction will be performed at the Center's Nissan dealership, located at 1152 Marina Boulevard. Aluminum paneling will highlight the main building's exterior, creating a modern, performance-driven image that has become a trademark of Nissan's dealerships. Hallmark will also renovate the dealership's interior, adding a fresh look to the attractive showroom and sales area.

Hallmark will also perform improvements at San Leandro Hyundai and Kia, both located at 1066 Marina Boulevard, as well as the service center that supports each of the dealerships. Work on the Hyundai and Kia locations will include cosmetic upgrades to the building exterior and sales lot, enhancing these already attractive locations.

The service center, which provides maintenance and repairs for the Auto Center's customers and the general public, will also be renovated to create a brighter atmosphere, building upon Marina Square Auto Center's reputation for providing a friendly experience.

"We are very excited about the remodeling of the dealership," said the Auto Center's President and CEO, George Assoun. "We are committed to providing our customers with the best automotive experience possible and our upgraded facilities will serve to strengthen that commitment."

Hallmark has the industry's most impressive track-record delivering projects for a multitude of dealerships throughout Northern California during its 25 years in business. As a long-time member of the Silicon Valley Auto Dealers Association, Hallmark is turned to for its specialized

expertise in dealership construction, including anything from minor renovations to brand-new retail and service facilities.

Hallmark has a well-earned reputation for quality, integrity, and client loyalty. Other specialties include new building construction, tenant improvements, technology sector construction, sustainable "green" building, and more. Hallmark maintains job sites throughout Northern California while operating from its Santa Clara headquarters and its satellite office in Pacific Grove.

For more information, contact Kristina at kcorral@lshallmark.com or visit Hallmark's website at: www.lshallmark.com.

About Hallmark Construction

Hallmark Construction is a leading Northern California general contractor with a well-earned reputation for quality, integrity, and client loyalty. The company specializes in new building construction, whether it is tenant improvement in Palo Alto, technology sector construction in Silicon Valley, sustainable, or green building in Monterey, or new office construction in Pleasanton. Hallmark Construction maintains projects up and down Northern California's coast, including Monterey and the San Francisco Bay Area, while operating from its Santa Clara headquarters and its satellite office in Pacific Grove, just outside of Monterey.

NEWS RELEASE

Release Number: 39

Release Date: August 11, 2011

California Supreme Court To Decide Redevelopment Case

Court sets expedited briefing schedule, and Targets an opinion before mid-January 2012

San Francisco—The California Supreme Court today issued an order in *California Redevelopment Assn. v. Matosantos* (S194861), directing the parties to show cause why the relief sought in the petition for a writ of mandate should not be granted. This case involves the validity of recent legislation (Stats. 2011, 1st Ex. Sess. 2011-2012, ch. 5 [Assem. Bill No. 26 X1]); Stats. 2011, 1st Ex. Sess. 2011-2012, ch. 6 [Assem. Bill No. 27 X1]), dissolving and reenacting with changes the statutory framework for redevelopment agencies throughout California.

The court allowed the first statute to remain in effect insofar as it precludes existing redevelopment agencies from incurring new indebtedness, transferring assets, acquiring real property, entering into new contracts or modifying existing contracts, entering into new partnerships, adopting or amending redevelopment plans, etc., but it stayed enforcement of both statutes in all other respects.

The court established an expedited briefing schedule designed to facilitate oral argument as early as possible in 2011, and a decision before January 15, 2012.

A copy of the court's order is attached.

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S194861
IN THE SUPREME COURT OF CALIFORNIA
En Banc

CALIFORNIA REDEVELOPMENT ASSOCIATION et al., Petitioners,
v.
ANA MATOSANTOS, as Director, etc. et al., Respondents.

The request for a stay of chapter 5, Statutes 2011, First Extraordinary Session (Assembly Bill No. 26 X1) is granted, except that the request to stay Division 24, Part 1.8 of the Health and Safety Code (Health & Saf. Code, §§ 34161-34167) is denied. The request for a stay of chapter 6, Statutes 2011, First Extraordinary Session (Assembly Bill No. 27 X1) is granted.

Ana Matosantos, Director of the California Department of Finance, John Chiang, Controller of the State of California, and Patrick O'Connell, Auditor-Controller of the County of Alameda, are ORDERED TO SHOW CAUSE before this court, when the above matter is called on calendar, why the relief sought by petitioners should not be granted.

The return is to be served and filed by respondents on or before September 9, 2011.

A reply may be served and filed by petitioners on or before September 24, 2011.

Any application to file an amicus curiae brief, accompanied by the proposed brief, may be served and filed on or before September 30, 2011.

Any reply to an amicus brief may be served and filed on or before October 7, 2011.

The court does not contemplate extending any time set out above. The briefing schedule is designed to facilitate oral argument as early as possible in 2011, and a decision before January 15, 2012.

Kennard, J., is of the opinion a stay should not be issued.

Cantil-Sakauye, Chief Justice
Kennard, Associate Justice
Baxter, Associate Justice
Werdegar, Associate Justice
Chin, Associate Justice
Corrigan, Associate Justice
_____, *Associate Justice*



STOP THE STATE'S REDEVELOPMENT PROPOSAL

PROTECT LOCAL JOBS AND THE ECONOMY

FOR IMMEDIATE RELEASE
August 11, 2011

CONTACT: KATHY FAIRBANKS
916.443.0872

kfairbanks@bcfpublicaffairs.com

916.443.0870m

California Supreme Court Agrees to Hear Redevelopment Petition on Expedited Basis

**State Supreme Court Also Issues Partial Stay Which Prevents Redevelopment Agencies from
Having to Make Payments Until Supreme Court Resolves Case**

SAN FRANCISCO -- Today, the California Supreme Court announced that it had agreed to take *California Redevelopment Assn. v. Matosantos* (S194861), the petition challenging the constitutionality of the recent budget bills (AB 1x 26 & 27) that eliminate redevelopment agencies unless they agree to make a "ransom" payment to fund State obligations. The California Supreme Court also granted part of the stay requested by the California Redevelopment Association and League of California Cities. The stay, in effect, prevents redevelopment agencies from being forced to make the payments until the Court rules on the merits of the case.

"We're very gratified that the California Supreme Court has agreed to take our case, issued the stay we requested to preserve the status quo, and that it is moving forward on an expedited basis," said Chris McKenzie, Executive Director, League of California Cities. "The redevelopment bills are unconstitutional, violating Proposition 22 and other provisions of the state constitution. We look forward to presenting our case to the Court very soon. We're confident the State Supreme Court will ultimately strike down this unconstitutional legislation that ignores the voters' will and that will destroy local economies."

The court established an expedited briefing schedule designed to facilitate oral argument as early as possible in 2011, and a decision before January 15, 2012, the date when redevelopment agencies are required to make their first payment.

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Facts about Lawsuit to Overturn Unconstitutional Redevelopment Elimination/Extortion Legislation (AB 1X 26/27)

On July 18, 2011, the League of California Cities, California Redevelopment Association and the cities of San Jose and Union City filed a petition in the California Supreme Court to have the redevelopment elimination/extortion bills, Assembly Bills AB 1X 26&27, declared unconstitutional. The lawsuit also requested a stay to prevent the legislation from going into effect until the Court can rule on the merits.

Among many claims, the central claim in the lawsuit is that AB 1X 26&27 violate Proposition 22, the constitutional amendment passed by 61% of California voters in November 2010, just eight months ago.

Prop. 22's findings and statement of purpose that were part of the ballot measure are crystal clear and capture the essence of our lawsuit:

"The purpose of this measure is to conclusively and completely prohibit state politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending, or otherwise taking or interfering with revenues that are dedicated to funding services provided by local government or funds dedicated to transportation improvement projects and services." The revenues protected by Proposition 22 specifically include the annual increments of property taxes allocated to California's nearly 400 redevelopment agencies.

Section 9 of Proposition 22, one section of the constitutional amendment related to redevelopment, is explained with abundant clarity:

"...The Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring redevelopment agencies to transfer a portion of those taxes for purposes other than the financing of redevelopment projects. A purpose of the amendments made by this measure is to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, the redevelopment agency to transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction; or to use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction."

And lastly, the official Title and Summary of Proposition 22 left no doubt that the Constitution would be changed to stop State raids and shifts of redevelopment funds. Ironically, the Title and Summary was prepared by then Attorney General Jerry Brown:

PROHIBITS THE STATE FROM BORROWING OR TAKING FUNDS USED FOR TRANSPORTATION, REDEVELOPMENT, OR LOCAL GOVERNMENT PROJECTS AND SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.

Summary: Prohibits State, even during severe fiscal hardship, from delaying distribution of tax revenues for these purposes. Fiscal Impact: Decreased state General Fund spending and/or increased state revenues, probably in the range of \$1 billion to several billions of dollars annually. Comparable increases in funding for state and local transportation programs and local redevelopment.

Legislature Scheduled to Return Aug. 15 and Take Action on Outstanding Bills Before Session Ends on Sept. 9

League of California Cities (LOCC)

When the legislators return from their summer break on Monday, Aug. 15, they will resume work on a number of outstanding bills of concern to cities. All actions must be completed before adjournment of session on Sept. 9. Below is a list of bills for which the League has taken a position and flagged as "Hot." Some of these bills could be amended substantially but many are likely to go directly to Gov. Jerry Brown's desk in their current form.

One good sign for cities is that in the Governor's recent veto of AB 455 (Campos), he illustrated that he is critically reviewing bills which would impede local control. In his AB 455 veto message, the Governor characterized the bill as a "top down, one-size-fits-all solution on merit and personnel commissions statewide" and noted that it was inconsistent with his efforts to increase local control. Therefore, it is especially important that cities submit opposition letters for the League-opposed bills below, as these letters have an influence in informing the Governor's decisions.

All League position letters and select sample letters can be found on the League's [website](#) by typing the bill number into the search box.

Employee Relations

SB 46 (Correa) Public Officials: Compensation Disclosure. *Oppose.* This bill would duplicate existing requirements by calling for anyone who files a statement of economic interest under the Political Reform Act to additionally file an annual compensation disclosure form created by the state controller.

AB 438 (Williams) County Free Libraries: Withdrawal. *Oppose. Imposes numerous restrictive requirements on public-private contracts for library services.* This bill ties the hands of local governments grappling with how to maintain existing services at a time when the state wants to require local governments to provide more services.

AB 506 (Wieckowski) Municipal Bankruptcy, Fiscal Emergencies and Employee Relations. *Oppose.* Prohibits any local government from filing Chapter 9 Federal Bankruptcy protection without first receiving permission from a "neutral" evaluator that has the power to make determinations and is more like an arbitrator. Further, the measure contains an obstacle course of criteria and conditions that are replete with bias against local agencies to the benefit of labor interests.

AB 646 (Atkins) Public Employee Organizations. Impasse Procedures. *Oppose.* Many cities provide for impasse procedures, including mediation and factfinding, in collective bargaining negotiations and bargain in good faith with their respective employee organizations. AB 646 removes this local authority by giving full discretion to public employee unions to request factfinding once an impasse is reached. Additionally, the significant cost that will be imposed on agencies for a process that is at the sole discretion of the local bargaining unit and not the agency is financially impractical for cities.

SB 931 (Vargas) Public Agencies. Outside Legal Counsel. *Oppose.* Provides that all public agencies are forbidden to use taxpayer dollars to pay for outside consultants or legal advisors for the purpose of counseling the public employer about ways to minimize or deter the exercise of public employee union activities.

Public Safety

AB 604 (Skinner) Hypodermic Needles and Syringes. *Oppose.* Allows the state Department of Public Health to authorize local health clinics to provide needle and syringe exchange services, preempting the current local decision making powers of the city or county.

AB 678 (Pan) MediCal Emergency Services Reimbursement. *Support.* Makes federal funds available to participating cities and public agencies that provide pre-hospital transport services to MediCal recipients for reimbursement of costs not covered through the MediCal program.

AB 1389 (Allen) Sobriety Check Points. *Oppose.* Changes regulations for local law enforcement to sobriety (DUI) check points and makes it permissible for drivers to evade check point locations with no repercussions.

SB 676 (Leno) Industrial Hemp Pilot Program. *Oppose.* Establishes an industrial hemp pilot program in five counties (Imperial, Kern, Kings, San Joaquin and Yolo) and allows specified plots of land to be used for hemp cultivation regardless of local land use policies and potential conflicts with federal prohibition.

Land Use and Housing

AB 46 (Perez) and AB 781 (Perez) City of Vernon: Disincorporation. *Oppose.* AB 46 would disincorporate the city of Vernon in Los Angeles County while AB 781 would implement the disincorporation of the city. Cities should oppose both bills.

AB 1220 (Alejo) Land Use: Cause of Actions: Time Limitations. *Oppose.* Seeks to change the decision of a Court of Appeal (*Urban Habitat v. city of Pleasanton*). The bill would create a five year statute of limitations to challenge land use planning decisions.

SB 469 (Vargas) Land Use: Development Project Review: Superstores. *Oppose.* Requires a city or county prior to approving or disapproving a "superstore retailer" to require, at applicant expense, a private consultant to prepare an exhaustive economic impact report examining 17 different detailed conditions. A "superstore" is defined as more than 90,000 square feet, selling a wide range of consumer goods, and where 10 percent of the total floor area is devoted to selling non-taxable food items. This measure contains an exemption for "discount warehouses" (with no square foot limitations) that sell over half of their items in bulk and require a membership fee.

SB 244 (Wolk) Land Use: General Plan: Disadvantaged Unincorporated Communities. *Oppose.* This bill creates a state-mandated local program which requires cities to review and update its General Plan as necessary to address disadvantaged unincorporated communities. After the initial revision and update of the General Plan, a city is also required to review, and if necessary amend, the general plan to update the information, goals, and program of action relating to these communities therein.

AB 710 (Skinner) Local Planning: Infill and Transit-Oriented Development. *Oppose.* This bill would limit a city's parking standard to one parking space per 1,000 square feet of non-residential improvements and one space per unit of residential improvements for any new development project in transit intensive areas.

Public Works

SB 293 (Padilla) Payment Bonds: Laborers. This bill would limit a local agency's ability to set retention rates to no more than 5 percent in public contracts. Cities use retention proceeds to assure that work is done in compliance with the contract document and serve as a financial incentive for contractors to complete a project. The League is seeking amendments that would remove these provisions from the bill.

Revenue and Taxation

AB 155 (Calderon) Use Tax: Retailer Engaged in Business. *Support.* Improve use tax collection through different approaches to increase the amount of state and local revenues collected from online sales.

SB 191, 192 and 193 (Senate Committee on Governance and Finance) Validating Acts of 2011. *Oppose, Unless Amended.* Administration-backed amendments were recently added into this bill to remove protections for actions undertaken by redevelopment agencies.