

RESOLUTION NO. 2012-22

**A RESOLUTION OF THE CITY OF BELL REQUESTING
LEGISLATION TO ASSIST THE CITY IN ITS CURRENT
FINANCIAL CONDITION RESULTING FROM
MUNICIPAL CORRUPTION AND THE ELIMINATION OF
REDEVELOPMENT**

WHEREAS, the City of Bell, incorporated November 7, 1927, is an ethnically diverse community with a population of 35,477, of which 90.7% are Hispanic, 7.2% White, and 2% Black, Asian and other races. The estimated median income is \$37,483 which is 36% below the estimated median income for Los Angeles County of \$58,925; the estimated per capita income is \$12,653, and its residents are suffering with an unemployment rate of 16% which is 50% higher than Los Angeles County generally; and all residential census tracts are eligible for Community Development Block Grant funds under the US Department of Housing and Urban Development guidelines; and

WHEREAS, the City has gained great notoriety since July 15, 2010 when the Los Angeles Times, in a series of investigative stories for which its reporters, Ruben Vives and Jeff Gottlieb, earned a Pulitzer Prize, disclosed that the City's Chief Administrative Officer was the highest paid municipal official in the state with a salary of over \$700,000 and that individual council members received \$100,000 compensation annually even though the charter limited salaries in accordance with state law, and

WHEREAS, following these and other disclosures, on September 15, 2010, the California Attorney General sued existing and former Bell officials, Robert A. Rizzo, Pier'Angela Spaccia, Randy G. Adams, Oscar Hernandez, Teresa Jacobo, George Cole, Victor Bello and George Mirabal, (the "Bell 8") in their official capacity (the "AG Action") alleging waste of public funds, negligence, fraud, conflict of interest and breach of fiduciary duty and violation of public trust; and these proceedings have continued for 18 months and the officials have all sought to have the City pay their legal defense costs, with former Police Chief Randy Adams alone seeking over \$500,000 in legal fees; and the aggregate exposure to legal fees from such officials exceeds \$3M, and the City itself has spent over \$300,000 in legal fees in the AG Action; and

WHEREAS, the Los Angeles County District Attorney on March 29, 2011 filed criminal indictments against The Bell 8 (including Luis Artiga but excluding Randy Adams) alleging (i) conspiracy to misappropriate public funds; (ii) two counts of secretion of official record; (iii) misappropriation of public funds; (iv) two counts of falsification of official record; and (v) conflict of interest (the “DA Action”), and these legal proceedings are continuing and generating legal expenses to City in producing records and other matters; and

WHEREAS, during the months from October, 2010 to April, 2011, the State Controller in response to City’s request, initiated a series of audits of various funds and practices of City, including all independent audits undertaken by the City’s audit firm of Mayer Hoffman McCann, and including audits of the City’s redevelopment program; and in a report issued January 18, 2011 found that the City’s internal controls were “virtually non-existent,” resulting in illegally raised taxes, mismanaged bond funds and questionable contracts and land purchases; and due to the turmoil surrounding the audit, no audits were performed for the period between June 2010 and June 30, 2011 and the City was not able to retain an audit firm until July 27, 2011 and the new firm Macias, Gini & O’Connell, is now doing audits of two fiscal years through June 30, 2010 and June 30, 2011; but as a consequence of the foregoing, there is uncertainty concerning the City’s financial condition and in fact the accuracy of current fund balances cannot be verified and is not likely to be clear before March 31, 2012, the tentative date for completing the audits; and

WHEREAS, in the review of City finances it was discovered that property taxes in Bell are among the highest in Los Angeles County at 1.55 %, (nearly 50% greater than those in such affluent enclaves as Beverly Hills, Palos Verdes Estates and Manhattan Beach, and significantly higher than just about everywhere else in the County), and in the case of pension obligations, were in fact not imposed in a manner consistent with the Revenue and Taxation Code; and accordingly Assemblyman Kevin De Leon sponsored AB900 which was adopted by the Legislature and signed by the Governor in the fall of 2010 and returned nearly \$3M to property owners in Bell, which monies were paid from City reserves; and

WHEREAS, the Bell Citizens successfully circulated recall petitions gathering over 4000 signatures and in a combination recall/general election held on March 8, 2011, the

entire Council was replaced by five new Councilmembers who have never been on a council previously, and the Council has now replaced every senior manager of the City; and

WHEREAS, the new Council has found the City's prior administration involved the City and its Redevelopment Agency in various transactions, some of which were included in the State Controllers' audits, which have further exposed the City and its residents to financial liability including:

(A) General Obligation Bonds. The City issued \$50M of general obligation bonds to build a sports complex, parks and other public and civic facilities (the "Sports Complex") through its Surplus Property Authority which bonds were paid for by ad valorem property taxes; but with the property tax burden in Bell being the second highest in LA County, and with property tax rate increases of 67% required to support repayment of such bonds; the Council determined not to complete the program and with potential for litigation involving bond holders, is preparing a work out plan to repay bond holders the \$20M of remaining bond proceeds while maintaining property taxes at approximately the current level to repay the \$30M which has been spent; and

(B) Dexia Lawsuit. Dexia has sued the City for \$35M due to a transaction where the City intended to sublease acreage to Burlington Northern and Santa FE ("BNSF") for development ("Rickenbacker" or "Federal Service Center Site"), but the lease was invalidated in October of 2007 (*East Yard Communities for Environmental Justice v. Bell Public Financing Authority*, Los Angeles County Superior Court No. BS 111726), due to failure to comply with the California Environmental Quality Act ("CEQA"); and without the lease, BNSF did not proceed and without lease revenues to support repayment of the bonds, Dexia sued the City on October 14, 2011 (*Dexia Credit Local v. City of Bell, et al.*, Los Angeles Superior Court Case Number BC471478); and though the City has offered the site to Dexia, Dexia is claiming that the City's general fund is also liable for repayment; and the City is pursuing legal malpractice claims against the firms involved in the transaction; and

(C) Western Auto. The City entered a transaction to purchase an approximately 30,000 square foot parcel which combined with other Agency parcels constituted the Western Auto Center Site, which was seen as the most attractive economic development

opportunity to revitalize Bell's commercial core, but the City had agreed to pay \$6.8M for the property which the City has determined is significantly above actual current values and accordingly, the City has stopped payment and is involved in a foreclosure action *City of Bell, et al. v. County Records Research Inc., et al.*, Case No. VC059404), and may need to involve the whole site in a workout; and

(D) Employee Claims. The City is confronted by claims by various former employees including former police officers and others concerning personnel actions taken by the City, the loss of pension benefits, and other claims, which claims constitute multi-millions of dollars; [*Ramirez, et al. vs. Bell, et al.*, LASC BC474118; *Rizzo v. Bell*, LASC BC472566; *James Corcoran vs. Bell*, LASC BC442280); and

(E) State Park Audit. The State Controller audit and a subsequent audit by the Parks Department raised questions as to whether park funds were spent for eligible activities or in accordance with grant restrictions, and also raised questions as to whether some City vendors had violated various statutory requirements including Government Code § 1090 prohibiting public officials from being interested in City contracts; and

(F) Contractor Claims. The City has been sued by various contractors (*D&J Engineering v. Bell*, LASC VC059415; *Richard Fisher Associates v. Bell*, LASC BC066983), claiming that they have not been paid for work they were performing for City, and City has been able to have several of these lawsuits dismissed due to the lack of valid written contracts for services, but all these matters are continuing to increase the City's legal expenses.

WHEREAS, various investigative agencies including the SEC, IRS, State Department of Corporations, CalPERS and others have undertaken investigations of the above officials including reviewing salaries and benefits (including pension benefits); of various land transactions; and of public financing undertaken to pay the costs for the foregoing including issues with bond disclosure, validating of the expenditures and other issues; and over the last 18 months the City has provided some 600,000 documents, and in one year spent over \$400,000 in legal fees just dealing with document production issues related to such investigation by administrative agencies, and in the AG Action and DA action; and

WHEREAS, prior to the occurrence of these events the City's legal budget was in the \$200,000 to \$300,000 range while from Fiscal Year 2010 to 2011 the City spent \$1.7M in legal fees with expenses this year expected to meet or exceed this amount and these fees were not at excessive legal rates but rates generally at less than \$250 per hour; and the expenditures for legal fees given the matters the City is involved in are likely to continue for some period; and

WHEREAS, the City's Redevelopment Agency owns some 47 parcels throughout the City with approximately 28 parcels being the sites of public facilities; 1 parcel totaling 15.7 acres being a site owned jointly with other City entities such as the Surplus Property Authority; one parcel with 63 affordable senior housing apartment units; seven parcels totaling 24 acres known as the "Rickenbacker" are vacant land that could have future commercial and industrial development, which could expand employment and further add to the financial base for the City; and 10 parcels being either existing businesses or vacant sites for future economic development, 8 of which are in the downtown core; and these holdings are a vital part of the City's economic development program to alleviate blight and economic obsolescence, and revitalize the City's downtown core to expand employment and create a solid financial base for the City, and the citizen's of Bell support the objectives of this program; and

WHEREAS, the City's Housing Authority owns approximately 403 residential units including two mobile home parks of 337 total units, and several multi-family buildings of 46 units, all of which are occupied by persons of low and moderate income, and the residents are desirous of the City providing expanded housing assistance programs; and

WHEREAS, the State has passed AB1x26 which effective February 1, 2012 will eliminate the City's Redevelopment Agency and direct the City acting as a successor agency to liquidate its assets, including the expeditious sale of all real property, and to deposit its funds into accounts mandated by the law to be redistributed to other taxing entities, including the reallocation of City's housing funds; and

WHEREAS, due to all the above events constituting the "municipal scandal" and the departure of the City's management team and the turn over of other staff, including all staff active in redevelopment, the City currently has no staff available who are familiar with many of

the City's previous redevelopment and housing programs or the history of property acquisitions and funding, and few staff who could properly staff an Oversight Committee.

WHEREAS, the actions by the State Attorney General, the State Controller, the Legislature in adopting AB900, the Department of Corporations, and by the District Attorney, the IRS, the SEC and indeed all persons who have tried to investigate the corruption in Bell and determine how these matters occurred and what actions should be taken, are legitimate and in the public interest and are appreciated by the Council and citizens of Bell, and yet it is the responsibility of the Council to determine how the City can survive and continue to provide critical services to its citizens, and in this effort the Council feels that the Legislature could provide significant relief; and

WHEREAS, the City believes its condition would be significantly improved if the following program could be enacted: (i) the Housing Authority would retain Housing Funds and properties to continue to promote its low and moderate income housing programs, (ii) Agency properties which are the subject of claims and litigation should be retained by the successor agency to be disposed of in a manner to resolve such claims, (iii) Agency properties in the downtown core should be retained by the successor agency to be disposed of to promote jobs and downtown revitalization, (iv) with regards to the disposal of other Agency Properties, the successor agency should be able to keep half the proceeds for the above purposes, and (v) the successor agency needs administrative funds to carry out the foregoing.

Now **THEREFORE**, the Council resolves as follows:

The City respectfully requests that the Legislature enact Legislation in whatever form would be appropriate to permit the City to retain certain resources and powers to undertake economic development and housing programs to generate jobs, revitalize properties critical to its downtown core and continue its housing programs, as follows:

1. Grace Period. The City should be given at least a 1 year grace period to implement AB1x26.
2. Housing Authority Retains Property. The City's Housing Authority should be permitted to retain properties currently a part of or intended to be used for its

provision of low and moderate income housing whether the acquisition of the property was funded by Redevelopment Agency's Housing Fund or other sources.

3. Housing Authority Retains Housing Fund. The City should be permitted to transfer all monies in its low and moderate income Housing Fund to its Housing Authority so with its rental income and other revenue it can continue its programs for such purposes, and should continue to receive such funds for the life of the redevelopment plan.
4. Disposition of Agency Property for Public Purposes. All property owned by Agency or any joint entity intended to be used for public purposes should be conveyed to the City as successor agency without additional compensation as soon as possible.
5. Successor Agency Five Years to Dispose of Property. The City should be given at least 5 years to dispose of its Agency properties, with extensions approved by its Oversight Committee for the litigated property and downtown property as shown in Exhibit A, if due to economic conditions and despite the City's best efforts, an end user has not been found.
6. End Users for Property. Acceptable end users for Agency properties will be evaluated primarily on the basis of their ability to, (i) create employment, (ii) result in economic growth (iii) generate a positive fiscal impact, (iv) alleviate blight, (v) stimulate other community development, rather than maximizing the purchase price or lease rate for the property.
7. Successor Agency to Retain Litigation Properties. For the disposition of Agency property or assets involved in or related to litigation as shown in Exhibit A, their disposition will be determined through the litigation on terms deemed acceptable by City, as successor agency. The City as successor agency may utilize the land value to negotiate settlements which would (i) resolve the litigation, (ii) produce end users meeting the criteria in #6 above.

8. Successor Agency to Retain Downtown Properties. For the disposition of Agency property or assets involved in or related to the City's downtown core area as shown in Exhibit A, the City as successor agency may utilize the land value to negotiate settlements which would produce end users meeting the criteria in #6 above.

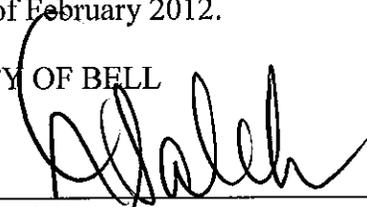
9. City to Retain a Portion of Proceeds from Disposition. For Agency property not meeting any of the above requirements, when it is disposed of, the City as successor agency may retain half of the proceeds of the disposition which proceeds may only be used for purposes of promoting the projects described above.

10. Administrative Funds. The City as successor agency should be able to annually retain the 5% administrative funds authorized by AB1x26 for five years.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Bell.

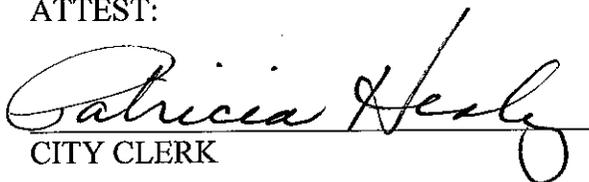
PASSED, APPROVED AND ADOPTED this 25th day of February 2012.

CITY OF BELL



Ali Saleh, Mayor

ATTEST:



CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BELL)

I, Patricia Healy, Interim City Clerk of the City of Bell, California, do hereby certify that Resolution No. 2012-22 was adopted by the City Council of the City of Bell at a regular meeting held on the 25th day of January, 2012 and that the same was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:


INTERIM CITY CLERK