

ORDINANCE NO. ORD-11-0016

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2  
3 AN ORDINANCE OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH, DETERMINING IT WILL COMPLY  
5 WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT  
6 PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF  
7 THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER  
8 TO PERMIT THE CONTINUED EXISTENCE AND  
9 OPERATION OF THE REDEVELOPMENT AGENCY OF THE  
10 CITY OF LONG BEACH, CALIFORNIA; DECLARING THE  
11 URGENCY THEREOF; AND DECLARING THAT THIS  
12 ORDINANCE SHALL TAKE EFFECT IMMEDIATELY  
13

14 WHEREAS, the City Council of the City of Long Beach ("City") adopted and  
15 approved certain redevelopment plans (the "Redevelopment Plans") for the North,  
16 Central, Downtown, West Beach, West Long Beach Industrial, Poly High and Los Altos  
17 redevelopment project areas covering certain properties within the City (the "Project  
18 Areas"); and

19 WHEREAS, the Redevelopment Agency of the City of Long Beach  
20 ("Agency") is engaged in activities to execute and implement the Redevelopment Plans  
21 pursuant to the provisions of the California Community Redevelopment Law (Health and  
22 Safety Code § 33000, et seq.) ("CRL"); and

23 WHEREAS, since adoption of the Redevelopment Plans, the Agency has  
24 undertaken redevelopment projects in the Project Areas to eliminate blight, to improve  
25 public facilities and infrastructure, to renovate and construct affordable housing, and to  
26 enter into partnerships with private industries to create jobs and expand the local  
27 economy; and

28 WHEREAS, over the next few years, the Agency hopes to implement a

1 variety of redevelopment projects and programs to continue to eliminate and prevent  
2 blight, stimulate and expand the Project Areas' economic growth, create and develop  
3 local job opportunities and alleviate deficiencies in public infrastructure, to name a few;  
4 and

5 WHEREAS, as part of the 2011-12 State budget bill, the California  
6 Legislature has recently enacted and the Governor has signed, companion bills AB 1X 26  
7 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the  
8 community that created it enacts an ordinance committing it to making certain payments;  
9 and

10 WHEREAS, specifically, AB 1X 26 prohibits agencies from taking numerous  
11 actions, effective immediately and purportedly retroactively, and additionally provides that  
12 agencies are deemed to be dissolved as of October 1, 2011; and

13 WHEREAS, AB 1X 27 provides that a community may participate in an  
14 "Alternative Voluntary Redevelopment Program," in order to enable a redevelopment  
15 agency within that community to remain in existence and carry out the provisions of the  
16 CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the  
17 Health and Safety Code; and

18 WHEREAS, the Alternative Voluntary Redevelopment Program requires  
19 that the community agree by ordinance to remit specified annual amounts to the county  
20 auditor-controller; and

21 WHEREAS, under the threat of dissolution pursuant to AB 1X 26, and upon  
22 the contingencies and reservations set forth herein, the City shall make the Fiscal Year  
23 2011-2012 community remittance, currently estimated to be Thirty-Four Million Dollars  
24 (\$34,000,000.00), as well as the subsequent annual community remittances as set forth  
25 in the CRL; and

26 WHEREAS, the City reserves the right to appeal the California Director of  
27 Finance's determination of the Fiscal Year 2011-12 community remittance, as provided in  
28 Health and Safety Code Section 34194; and

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1           WHEREAS, an action challenging the constitutionality of AB 1X 26 and AB  
2 1X 27 has been filed on behalf of cities, counties and redevelopment agencies, including  
3 the City and the Agency; and

4           WHEREAS, while the City currently intends to make these community  
5 remittances, they shall be made under protest and without prejudice to the City's right to  
6 recover such amounts and interest thereon, to the extent there is a final determination  
7 that AB 1X 26 and AB 1X 27 are unconstitutional; and

8           WHEREAS, the City reserves the right, regardless of any community  
9 remittance made pursuant to this ordinance, to challenge the legality of AB 1X 26 and AB  
10 1X 27; and

11           WHEREAS, to the extent a court of competent jurisdiction enjoins,  
12 restrains, or grants a stay on the effectiveness of the Alternative Voluntary  
13 Redevelopment Program's payment obligation of AB 1X 26 and AB 1X 27, the City shall  
14 not be obligated to make any community remittance for the duration of such injunction,  
15 restraint, or stay;

16           NOW, THEREFORE, the City Council of the City of Long Beach ordains as  
17 follows:

18           Section 1.   Participation in the Alternative Voluntary Redevelopment  
19 Program. In accordance with Health and Safety Code Section 34193, and based on the  
20 recitals set forth above, the City Council hereby determines that the City shall comply  
21 with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as enacted  
22 by AB 1X 27, and shall make the community remittances set forth in Health & Safety  
23 Code Section 34194 et seq., subject to Paragraph 2 below.

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25           Section 2.   Reservation of Rights. It is the position of the City that certain  
26 or all provisions of AB 26 and AB 27 violate the law, and are invalid and unenforceable.  
27 Neither the adoption of this ordinance, nor the acknowledgment of or references to any  
28 provisions of AB 26 and AB 27, nor the City's payment of any remittances contemplated

1 by Part 1.9, shall be deemed to be, nor are they intended as, an acknowledgment of the  
2 validity of AB 26 and AB 27. The City reserves all rights of the City and the Agency to  
3 challenge the validity of any or all provisions of AB 26 and AB 27 in any administrative or  
4 judicial proceeding and to repeal this ordinance, without prejudice to the City's right to  
5 recover any amounts remitted under Part 1.9. The City shall not make any remittance  
6 under Part 1.9 in the event that a court of competent jurisdiction either grants a stay on  
7 the enforcement of AB 26 and AB 27 or determines that AB 26 and AB 27 are  
8 unconstitutional and therefore invalid, and all judicial appeals are exhausted or  
9 unsuccessful, or the time for filing an appeal has lapsed. Any remittance under Part 1.9  
10 shall be made under protest and without prejudice to the City's right to recover the  
11 remittance amount and accrued interest thereon in the event that there is a final judicial  
12 determination that AB 26 and AB 27 are invalid. In addition, the City reserves all rights of  
13 the City and the Agency to pursue any and all appeals and any available legal or  
14 equitable remedy provided or available by law to obtain the correction of any erroneous  
15 decision regarding the amount of payments that may be required to be paid by the City  
16 under Part 1.9 or other applicable statutes or regulations.

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18 Section 3. Implementation. The City Council hereby authorizes and  
19 directs the City Manager to take any action and execute any documents necessary to  
20 implement this ordinance, including but not limited to notifying the Los Angeles County  
21 Auditor-Controller, the Controller of the State of California, and the California Department  
22 of Finance of the adoption of this Ordinance and the City's agreement to comply with the  
23 provisions of Part 1.9 of Division 24 of the Health and Safety Code, as set forth in AB 1X  
24 27.

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26 Section 4. Severability. If any provision of this ordinance or the  
27 application thereof to any person or circumstance is held invalid, such invalidity shall not  
28 affect other provisions or applications of this ordinance which can be given effect without

1 the invalid provision or application, and to this end the provisions of this ordinance are  
2 severable. The City Council hereby declares that it would have adopted this Ordinance  
3 irrespective of the invalidity of any particular portion thereof.

4  
5 Section 5. Urgency Clause. The City Council finds and declares that this  
6 ordinance is required for the immediate preservation of the public peace, health and  
7 safety for the following reasons:

8 (a) AB 1X 26 prohibits agencies from taking numerous actions, until the  
9 City Council adopts an ordinance agreeing to comply with Part 1.9 of Division 24 of the  
10 Health and Safety Code, including but not limited to incurring any new monetary or legal  
11 obligations or expanding any existing monetary or legal obligations, entering into  
12 agreements with any person for any purpose or amending or modifying any existing  
13 agreements and taking any action with respect to a redevelopment plan;

14 (b) Prior to the enactment of an ordinance agreeing to comply with Part  
15 1.9 of Division 24 of the Health and Safety Code, the Agency will be unable to continue  
16 efforts to eliminate and prevent blight (including remediation of buildings and structures  
17 which are unhealthy or unsafe to occupy or properties with hazardous waste), stimulate  
18 and expand the Project Areas' economic growth, create and develop local job  
19 opportunities and alleviate deficiencies in public infrastructure;

20 (c) Blighting conditions in the Project Areas constitute substantial threats  
21 to public peace, health and safety, and are so prevalent they cannot be eliminated  
22 without Agency action, including but not limited to the use of Agency funds and  
23 authorization of redevelopment projects and programs;

24 (d) During the current economic crisis, the Agency must have the ability  
25 to act and continue the efforts set forth in (b) above. The Agency must have all tools  
26 available in order to eliminate and prevent blighting conditions, including implementation  
27 of the Agency's economic development programs.

28 (e) The Agency is actively engaged in efforts to rehabilitate housing

1 units, to provide assistance for property improvements and to provide safe and affordable  
2 housing. Adoption of this urgency ordinance will permit the Agency to continue these  
3 efforts immediately.

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5 Section 6. This ordinance is an emergency ordinance duly adopted by  
6 the City Council on August 9, 2011, by a vote of at least five (5) of its  
7 members and shall take effect immediately. The City Clerk shall certify to a separate roll  
8 call and vote on the question of the emergency of this ordinance and to its passage by  
9 the vote of five members of the City Council of the City of Long Beach, and cause the  
10 same to be posted in three conspicuous places in the City of Long Beach.

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12 Section 7. This ordinance shall also be adopted by the City Council as a  
13 regular ordinance, to the end that in the event of any defect or invalidity in connection  
14 with the adoption of this ordinance as an emergency ordinance, the same shall,  
15 nevertheless, be and become effective on the thirty-first day after it is approved by the  
16 Mayor.

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18 Section 8. The City Clerk shall certify to the passage of this ordinance by  
19 the City Council and cause it to be posted in three (3) conspicuous places in the City of  
20 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
21 Mayor.

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I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the questions of the emergency of this ordinance at its meeting of August 9, 2011, the ordinance was declared to be an emergency by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, DeLong, O'Donnell,  
Schipske, Andrews, Johnson, Gabelich,  
Neal.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

I further certify that thereafter, at the same meeting, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, O'Donnell, Schipske,  
Andrews, Johnson, Gabelich, Neal.

Noes: Councilmembers: None.

Absent: Councilmembers: DeLong.

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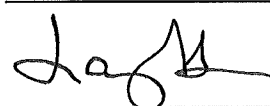
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I further certify that the foregoing ordinance was thereafter adopted on final reading of the City Council of the City of Long Beach at its meeting of August 16, 2011, by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, DeLong, O'Donnell,  
Schipske, Andrews, Johnson, Gabelich,  
Neal.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

  
\_\_\_\_\_  
City Clerk

Approved: 8/17/11  
(Date)

  
\_\_\_\_\_  
Mayor

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664