



CITY OF LONG BEACH

ORD-23

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 4th Floor Long Beach, CA 90802 Phone: 570.5237 Fax: 570.6205

August 9, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare the Ordinance determining the City of Long Beach will comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in order to permit the continued existence and operation of the Redevelopment Agency of the City of Long Beach, California (Agency) read for the first time and laid over to the next regular meeting of the City Council for the final reading; and

Approve the Remittance Agreement between the City of Long Beach (City) and the Agency, and authorize the City Manager to execute on the City's behalf, the Remittance Agreement, and to execute and take all necessary and appropriate actions to facilitate the Agency's participation in the Voluntary Alternative Redevelopment Program. (Citywide)

DISCUSSION

On June 29, 2011, Governor Jerry Brown signed the California State Budget, including Assembly Bills 1X 26 and 1X 27 (ABX 26 and ABX 27). These two bills went into immediate effect, significantly modifying the California Community Redevelopment Law.

ABX 26

ABX 26 suspends all new redevelopment activities by restricting redevelopment agencies' authority to incur new debt by adopting new or modifying existing obligations, to dispose of or acquire assets, or to prepare environmental impact reports, among other activities. ABX 26 also prescribes the steps redevelopment agencies must follow to wind down their activities in anticipation of their dissolution as of October 1, 2011, including preparation of an enforceable obligations schedule. (An enforceable obligation is generally defined as debt service on bonds or a third-party contract.) ABX 26 specifically excludes loan agreements and asset transfers between the City and the Agency as enforceable obligations, thereby voiding such agreements. After October 1, 2011, successor agencies and oversight boards would commence the redistribution of redevelopment agencies' assets.

ABX 27

ABX 27 establishes an alternative voluntary redevelopment program (Voluntary Program) that exempts participating redevelopment agencies from the provisions of ABX 26, including nullification of City and Agency agreements. To participate in the Voluntary Program, the legislative body of the community (e.g., the Long Beach City Council) must enact an ordinance by October 1, 2011, committing the City to pay a certain amount of money into a Special District Allocation Fund (SDAF) and the Educational Revenue Augmentation Fund (ERAF) on an annual basis starting in Fiscal Year 2011-2012 (FY 12).

The Voluntary Program payment is determined by the California Department of Finance (DOF) based on a statewide formula of financial data reported by redevelopment agencies for the State Controller's FY 09 annual report. The State's formula is based on generating \$1.7 billion for FY 12 and \$400 million or more in subsequent fiscal years. By August 1, 2011, the DOF will notify the City of the exact voluntary payment amount for FY 12. Current estimates place that payment at approximately \$34 million for FY 12 and \$8 million annually thereafter, starting in FY 13. Payments after FY 12 may increase or decrease as the ratio of annual bond debt service obligations to annual tax increment revenue fluctuates amongst redevelopment agencies statewide. In addition, if the Agency issues new bonded indebtedness after November 1, 2012, it will be required to increase its pass-through payments to school districts annually thereafter. The Voluntary Program payments are due in two equal installments on January 15 and May 15 of each year.

Despite the considerable financial constraints being placed on the Agency and its use of tax increment, and despite the challenges being mounted as to the constitutionality of ABX 26 and ABX 27, in order to retain the City's most successful revitalization tool, participation in the Voluntary Program is recommended under protest. Redevelopment projects have created market-rate housing, affordable housing, office space, manufacturing facilities, and retail services in underserved areas. Redevelopment activities have assisted public safety through the construction of the North and West police stations, Fire Station #12, and the installation of surveillance cameras. Redevelopment has contributed to the reduction of crime through the acquisition of nuisance properties and participation in the City's graffiti program. Redevelopment has also helped increase public safety by providing facilities to keep young people engaged, such as Mark Twain Library, Orizaba Park, Seaside Park, Davenport Park, and Admiral Kidd Park and Teen Center. During the period from 2002 through 2010, the Agency spent more than \$148 million on public facilities and improvements.

Pursuant to ABX 27, the City may enter into an agreement with the Agency whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount not to exceed the annual remittance required that year. The purpose of the agreement is to provide for the transfer of funds by the Agency to the City in an amount sufficient for the City to make the required remittances to the County Auditor-Controller. It is recommended the City Council authorize the City Manager to execute such a Remittance Agreement with the Agency and to take the actions necessary to facilitate the Agency's

participation in the Voluntary Program. The intent of the agreement is to rely on Agency funds to make the Voluntary Program payment.

ABX 27 allows agencies to use their FY 12 Low and Moderate Income Housing Set-Aside (Housing Set-Aside) allocation for the Voluntary Program payment, if findings are made that there are insufficient other moneys to make the payment. The necessary findings will be made by the Agency, if it is reestablished, in September. It is recommended that this option be utilized to assist the City in making the FY 12 payment. It is also recommended that the agreement between the Agency and the Long Beach Housing Development Company be amended to defer the FY 12 Supplemental Educational Revenue Augmentation Fund (SERAF) loan repayment. This will allow an additional \$4.1 million to be committed to the FY 12 SDAF payment. The remainder of the FY 12 payment would come from the deferral of projects in all redevelopment project areas.

The proposed apportionment of the Voluntary Program payment, based on the estimated Voluntary Program payment and projected Housing Set-Aside, is set forth below. It should be noted that the actual apportionment may be revised once the Agency readopts its FY 12 budget and determines which projects are eligible to proceed.

– Central	\$1,270,000
– Downtown	2,530,000
– North	6,500,000
– WLBI	1,250,000
– Poly High	4,065
– Housing Set-Aside	18,391,731
– Deferred SERAF Loan Repayment	4,180,470
TOTAL	<u>\$34,126,266</u>

In addition to committing to make the Voluntary Program payment, the attached Ordinance provides that while the City will comply with ABX 27, it reserves the right of the City and the Agency to challenge the validity of ABX 26 and ABX 27.

This letter was reviewed by Chief Assistant City Attorney Heather A. Mahood on July 26, 2011 and by Budget Management Officer Victoria Bell on July 25, 2011.

TIMING CONSIDERATIONS

City Council action is requested on August 9, 2011, in order to exempt the Agency from the onerous provisions of ABX 26 as soon as possible. The Ordinance is an emergency ordinance and would go into immediate effect upon the second reading; however, to meet the requirements of the City Charter, reestablishment of the Agency would not occur until thirty days after the second reading.

FISCAL IMPACT

In addition to abolishing redevelopment agencies, ABX 26 abolishes the concept of tax increment. Tax increment revenues that would have been allocated to redevelopment agencies will instead be treated as general property tax revenue, which will be allocated to successor agencies to pay enforceable obligations, and then to cities, counties, schools, and special districts in accordance with existing property tax allocations. The following table presents the estimated net property tax allocation to the General Fund under ABX 26.

Estimated Net Property Tax Allocation Under ABX 26		
	FY 12	FY 13
Revenue Distribution		
Projected Gross Tax Increment	91,958,000	94,835,000
Less Enforceable Obligations		
Debt Service on Bonds	(29,242,000)	(29,068,340)
LBHDC SERAF Loan Payment	(4,180,000)	(4,180,000)
Third-party Contracts	TBD	TBD
Net Property Tax for Allocation	58,536,000	60,760,875
Net Property Tax Allocation		
Non-City Districts (78.3%)	45,834,688	48,222,355
City (21.7%)	12,702,312	13,364,305

As the above table shows, if the Agency is dissolved under ABX 26, approximately \$58 million in "net" property tax revenue would be available for allocation to cities, counties, schools, and special districts next year. This estimate reflects an upper limit of the revenues that would be available for allocation because the Agency has enforceable obligations it must fulfill, such as construction contracts for the North Fire Station and the Westside storm drain improvements, and a commitment to fund off-site improvements for the new State courthouse. In addition, administrative costs for both the successor agency and the county auditor-controller, which are allowed under ABX 26, have not been included in the above estimate. The City would receive approximately 21.7 percent of each tax dollar remaining after the enforceable obligations have been paid, or an estimated \$12.7 million in FY 12.

While the estimated property tax allocation under ABX 26 may be \$12.7 million, the net fiscal impact is considerably less. As previously mentioned, agreements between the Agency and the City would not be considered enforceable obligations, and are invalidated by ABX 26. As a result, the General Fund will no longer benefit from annual Agency loan repayments, the payment of the CityPlace garage debt service, and support of redevelopment activities implemented by other City departments, such as targeted code enforcement, graffiti abatement, and current pass-through payments which have

already been budgeted. After all of the Agency's assistance to the City is taken into account, the net funds available in FY 12 are estimated to be less than \$729,000.

Estimated Net Fiscal Impact		
	FY 12	FY 13
Property Tax Allocation	12,702,312	13,364,305
Less Current Tax Increment Payments		
Tax Increment Pass-through	(2,930,165)	(3,073,790)
City Loan Repayment	(3,063,280)	(800,000)
Budgeted Support for GP and other City Funds	(5,980,000)	(6,099,600)
Net Fiscal Impact	728,867	3,390,915

There are two caveats to the estimated net fiscal impact that should be noted. First, it does not reflect the allocation of Redevelopment Agency carryover funds, estimated at \$66.6 million in the FY 12 budget. Under ABX 26, carryover balances would be allocated in the same manner as current tax increment revenues. However, it is unclear at this time how much would actually be available for allocation since a number of Agency obligations under third-party agreements are tied to these carryover funds, which also includes bond proceeds already earmarked for public improvement projects, such as the East Police Station and North Library.

Second, the estimate does not take into account proceeds from the sale of former Agency assets. Under ABX 26, the successor agency is required to expeditiously dispose of assets and properties of the former redevelopment agency in a manner that maximizes their value. All proceeds from the disposition of such assets will be allocated like the property tax revenue described above. The market value of the Agency's real estate assets is presently unknown. While not factored into this analysis, carryover funds and proceeds from the sale of Agency assets could result in an additional one-time allocation of property tax revenues. As such, the estimates presented in this analysis should be interpreted as the annual ongoing fiscal impact.

Lastly, over time, the City would not be able to collect the full amount of debt repayment that is due pursuant to its agreement with the Agency. The current outstanding principal amount is \$119 million with an additional \$51 million in interest. Under the agreement, this debt is repaid upon the conclusion of individual project areas, thereby ensuring continued revenue to the City in the form of debt repayment for future years. It is also unknown whether the City would be able to retain the rights to debt repayment if the Agency is abolished.

For all the reasons above, it is unlikely the City will reap significant financial benefits from the dissolution of the Agency. Aside from direct financial support to the General Fund, the City would no longer benefit from direct investment in economically challenged neighborhoods. It is, therefore, respectfully requested that the Agency be allowed to continue its mission of eliminating blight, improving neighborhoods, promoting economic

HONORABLE MAYOR AND CITY COUNCIL

August 9, 2011

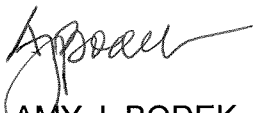
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development and enhancing the quality of life for residents, businesses and community stakeholders.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,




AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AJB:RMZ:LAF

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Attachment: City Council Ordinance

APPROVED:



PATRICK H. WEST
CITY MANAGER

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH, DETERMINING IT WILL COMPLY WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE REDEVELOPMENT AGENCY OF THE CITY OF LONG BEACH, CALIFORNIA; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

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

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

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

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

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.

24

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.

17
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.

25
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.

4

5 Section 6. This ordinance is an emergency ordinance duly adopted by
6 the City Council on _____, 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.

11

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.

17

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

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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 _____, 2011, the ordinance was declared to be an emergency by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

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: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

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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 _____, 2011, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
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