

ORDINANCE NO. 11-1477

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, 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 CARSON

WHEREAS, the City Council of the city of Carson (City) approved and adopted the Redevelopment Plan (Redevelopment Plan) for the Carson Consolidated Project Area (Project Area) covering certain properties within the City; and

WHEREAS, the Redevelopment Agency of the city of Carson (Agency) is engaged in activities to execute and implement the Redevelopment Plan 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 Plan, the Agency has undertaken redevelopment projects in the Project Area 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 variety of redevelopment projects and programs to continue to eliminate and prevent blight, stimulate and expand the Project Area's economic growth, create and develop local job opportunities and alleviate deficiencies in public infrastructure, to name a few; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed, companion bills ABX1 26 and ABX1 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, specifically, ABX1 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, ABX1 27 provides that a community may participate in an "Alternative Voluntary Redevelopment Program," in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

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

WHEREAS, under the threat of dissolution pursuant to ABX1 26, and upon the contingencies and reservations set forth herein, the City shall make the Fiscal Year 2011-2012 community remittance, currently estimated to be Eleven Million Nine Hundred Eighty Seven Thousand and Twenty Five Dollars (\$11,987,025.00), as well as the subsequent annual community remittances as set forth in the CRL; and

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

WHEREAS, City understands and believes that an action challenging the constitutionality of ABX1 26 and ABX1 27 will be filed on behalf of cities, counties and redevelopment agencies; and

WHEREAS, while the City currently intends to make these community remittances, they shall be made under protest and without prejudice to the City's right to recover such amounts and interest thereon, to the extent there is a final determination that ABX1 26 and ABX1 27 are unconstitutional; and

WHEREAS, the City reserves the right, regardless of any community remittance made pursuant to this Ordinance, to challenge the legality of ABX1 26 and ABX1 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Alternative Voluntary Redevelopment Program's payment obligation of ABX1 26 and ABX1 27, the City shall not be obligated to make any community remittance for the duration of such injunction, restraint, or stay; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, based on the evidence presented to the City Council, including the written staff report and oral testimony on this matter, the City Council does hereby find, determine and resolve as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Participation in the Alternative Voluntary Redevelopment Program. In accordance with Health and Safety Code Section 34193, and based on the Recitals set forth above, the City Council hereby determines that the City shall, to the extent required by law, comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as enacted by ABX1 27.

Section 3. Payment Under Protest. Except as set forth in Section 4, below, the City Council hereby determines that the City shall make the community remittances set forth in Health and Safety Code Sections 34194, *et seq.*

Section 4. Effect of Stay or Determination of Invalidity. The City shall not make any community remittance in the event a court of competent jurisdiction either grants a stay on the enforcement of ABX1 26 and ABX1 27 or determines that ABX1 26 and ABX1 27 are unconstitutional and therefore invalid, and all appeals therefrom are exhausted or unsuccessful, or

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time for filing an appeal therefrom has lapsed. Any community remittance shall be made under protest and without prejudice to the City's right to recover such amount and interest thereon in the event that there is a final determination that ABX1 26 and ABX1 27 are unconstitutional. If there is a final determination that ABX1 26 and ABX1 27 are invalid, this Ordinance shall be deemed to be null and void and of no further force or effect. This Ordinance shall not effect or give rise to any waiver of rights or remedies that the City may have, whether in law or in equity, to challenge ABX1 26 or ABX1 27. This Ordinance shall not be construed as the City's willing acceptance of, or concurrence with, either ABX1 26 or ABX1 27; nor does this Ordinance evidence any assertion or belief whatsoever on the part of the City that said bills are constitutional or lawful.

Section 5. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to implement this Ordinance, including but not limited to notifying the Los Angeles County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Ordinance and the City's agreement to comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as set forth in ABX1 27.

Section 6. Additional Understandings and Intent. It is the understanding and intent of the City Council that, once the Agency is again authorized to enter into agreements under the CRL, the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2, whereby the Agency will transfer annual portions of its tax increment to the City in amounts not to exceed the annual community remittance payments to enable the City, directly or indirectly, to make the annual remittance payments. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or assets to make the remittance payments. The City reserves the right to withdraw from making the payments required by ABX1 27 should the amount of such payments (as will be determined by the State Department of Finance) prove to be in excess of the City's available funds not otherwise obligated for other uses.

Section 7. CEQA. The City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a "project," but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

Section 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City Clerk's office located at 701 East Carson Street, Carson, CA 90745. The custodian for these records is the City Clerk.

Section 9. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

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Section 10. Certification; Publication. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

Section 11. Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2011.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe

APPROVED AS TO FORM:

City Attorney