



Agenda Item No. _____

File Code No. 620.01

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 13, 2011

TO: Mayor and Councilmembers

FROM: Housing and Redevelopment Division, Community Development Department

SUBJECT: Redevelopment Agency Continuation Ordinance

RECOMMENDATION: That Council:

- A. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara To Take Effect Only if Assembly Bills 1X 26 and 27 are Upheld and the Stay is Lifted to Make Remittances, Under Protest, Required by AB 1X 27 in Order to Avoid Dissolution of the Redevelopment Agency of the City of Santa Barbara; and
- B. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara to take Effect Only if Assembly Bills 1X 26 and 27 are Upheld and the Stay is Lifted Determining that it will Comply, Under Protest, 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 Santa Barbara.

BACKGROUND:

In 1972, the City Council of the City of Santa Barbara ("City") adopted the Redevelopment Plan for the Central City Redevelopment Project Area (the "Project Area") for the purposes of engaging in redevelopment activities as provided by the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL").

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 partners to create jobs and expand the local economy.

By its terms, the Project Area will expire in August 2015. Until that time, the Agency has plans to implement a variety of redevelopment and affordable housing projects and

programs to carry-out the goals and objectives of the Redevelopment Plan for the Project Area.

DISCUSSION:

State Legislation Impacts to Redevelopment Agency

As part of the Fiscal Year 2012 State budget bill, on June 29, 2011 the California Legislature approved, and the Governor signed, the budget bill (SB 87) and bills AB 1X26 (Dissolution Bill) and AB 1X 27 (Continuation Bill), which together, in their simplest form, result in the dissolution of all redevelopment agencies in the State on October 1, 2011 unless the city that created the redevelopment agency enacts a "Continuation Ordinance". The Continuation Ordinance must commit the jurisdiction in which the redevelopment agency is located to make payments in an amount determined according to statute to the county auditor controller in the current fiscal year and each fiscal year thereafter until, presumably, the agency's project area expires and it no longer receives tax increment funding. The legislation provides that the sponsoring jurisdiction and its redevelopment agency may enter into an agreement providing that the agency will transfer to the jurisdiction the amount of tax increment necessary for the jurisdiction to pay the "Community Remittance". The amount of this year's payment has been calculated by the State using a formula based upon the ratio of tax increment received by the agency to the \$1.7 billion dollars the state seeks to recoup from redevelopment agencies.

The Dissolution Bill prohibits redevelopment agencies from engaging in most redevelopment activity after June 29, 2011, its effective date. In order to continue the vital redevelopment activities of the Redevelopment Agency of the City of Santa Barbara, a Continuation Ordinance must be adopted and the Community Remittance paid. Until the Continuation Ordinance takes effect, the Agency cannot enter into any new contracts, obligations, and expand existing contracts or obligations.

Legal Challenge

In response to the State's action, on July 18, 2011, the California Redevelopment Association, California League of Cities, and two cities, including a charter city and a general law city, filed a legal challenge to the constitutionality of AB 1X 26 and 27 with the California Supreme Court and sought an immediate stay of the Bills in order to preserve local redevelopment funds pending a decision on the merits of the legal challenge. According to the California Redevelopment Association, the Bills, taken together, violate Proposition 22, enacted by the voters in the November 2010 election, prohibiting further State raids on local funds. The Court has stayed the effectiveness of most of AB 1X 26 and all of AB 1X 27. The court did not, however, stay the portion of AB 1X 26 that prohibits agencies from engaging in most redevelopment activities. The Court issued an expedited briefing schedule and is expected to issue a decision on the merits of the case by January 15, 2012.

In anticipation that the legislation will be upheld by the Court and the stay lifted, staff recommends that the City adopt, under protest, the attached Resolution of Intention and Continuation Ordinance committing to the Fiscal Year 2012 community remittance, determined by the State Department of Finance to be Seven Million Eighty-Five Thousand Two Hundred Fifty Seven Dollars (\$7,085,257), as well as the subsequent annual community remittances in the estimated amount of \$1,680,646. The Continuation Ordinance will take effect only if AB 1X 26 and 27 are upheld and the provision in AB 1X 27 allowing for the redevelopment agency and the jurisdiction to agree that agency tax increment will be transferred to the jurisdiction in the amount sufficient to pay the Community Remittance remains in the statute.

The Fiscal Year 2012 remittance is due in two equal payments on January 15, 2012 and May 15, 2012. The total payments for the City would be approximately \$14,000,000 over the remaining life of the City's Redevelopment Agency.

While staff recommends that the City Council adopt the Continuation Ordinance, and be prepared to make the community remittances in January 2012, staff also recommends that the action be taken under protest to enable the City to recover the full amount of the payments with interest if it is later determined that the bills are unconstitutional. The City also will be reserving its right, regardless of any community remittance made pursuant to this Continuation Ordinance, to challenge the legality of AB 1X 26 and AB 1X 27. The Council action will be null and void should AB 1X 26 and 27 be found to be unconstitutional or otherwise legally invalid.

While the Supreme Court has issued an expedited hearing schedule to render a decision before the initial payment due date on January 15, 2012, staff recommends that Council act before the New Year.

BUDGET/FINANCIAL INFORMATION:

The State intends the Fiscal Year 2012 "continuation payment" to provide \$1.7 billion in State funding and the Fiscal Year 2013 payment to provide \$400 million in State funding. The State Department of Finance has determined that the City of Santa Barbara's payment for Fiscal Year 2012 is \$7,085,257.

As outlined above, staff recommends that the Council determine to participate in the Alternative Voluntary Redevelopment Program, if AB 1X 26 and 27 are upheld and the stay is lifted, and be prepared, under protest to make the Fiscal Year 2012 community remittance by the due dates of January 15, 2012 and May 15, 2012. If, prior to the January due date, the Supreme Court has upheld AB 1X 26 and 27 and lifted the stay, staff will return to the Council to determine the appropriate source of payment for the \$7 million. It is likely that payment will be made through a combination of Fiscal Year 2012 tax increment revenue net of debt service and operational costs, Fiscal Year 2012 housing set aside money (legally permitted under the law for this purpose this fiscal

year only), and/or reprogramming money from existing capital projects. If tax increment is to be used for the payment, staff will return to seek authorization from the Council and Agency Board to enter a cooperation agreement and, if a portion of the Fiscal Year 2011-2012 housing set aside funds will be used, to make the findings of fact required to utilize housing set aside funds.

Additionally, if the statutes are upheld, the Redevelopment Agency Board will be asked to revisit the Agency's Capital Plan through Fiscal Year 2015 and remove \$14 million from the program through either elimination of projects, and/or reduction in budget and scope of the remaining projects. Staff continues to be prudent in the expenditure of funds to preserve Council options in determining the best course of action. This will include proceeding with design work on a number of projects, but not entering into any substantial contracts for construction.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The City Council finds, under Title 14 of the California Code of Regulations Section 15378(b)(4), that the Continuation 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. Staff will file a Notice of Exemption with the County Clerk in accordance with CEQA Guidelines.

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SUBMITTED BY: Paul Casey, Assistant City Administrator/Community
Development Director

APPROVED BY: City Administrator's Office