

ORDINANCE NO. 917

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSEMEAD CALIFORNIA, DETERMINING TO COMPLY WITH THE ALTERNATIVE VOLUNTARY 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 ROSEMEAD COMMUNITY DEVELOPMENT COMMISSION

WHEREAS, the Rosemead Community Development Commission (“CDC”) is a community development commission organized and existing under the California Community Redevelopment Law (Health & Safety Code § 33000 *et seq.*) (“CRL”) and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council of the City of Rosemead (“City Council” or “City,” as applicable); and

WHEREAS, pursuant to the CRL, the City Council approved and adopted the Redevelopment Plan (“Redevelopment Plan”) for the Rosemead Redevelopment Project (“Project”) on June 27, 1972, by Ordinance No. 340, and the CDC is vested with the responsibility for implementing and carrying out the Redevelopment Plan; and

WHEREAS, the CDC is currently in the process of carrying out the goals and objectives of the Redevelopment Plan by continuing to: eliminate blight; increase, improve, and preserve the supply of affordable housing in the community; stimulate and expand economic growth and employment opportunities by revitalizing properties and businesses within the Project; and alleviate deficiencies in public infrastructure; and

WHEREAS, in connection with approval and adoption of the State Budget for Fiscal Year 2011-12, the California Legislature has approved, and the Governor has signed (i) ABX1 26 (Stats. 2011, chap. 5, “ABX1 26”), which immediately, and purportedly retroactively, suspends all otherwise legal redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011 (the “Dissolution Act”); and (ii) ABX1 27 (Stats. 2011, chap. 6, “ABX1 27”), which allows communities to avoid the consequences of the Dissolution Act and continue their redevelopment CDC if the community enacts an ordinance agreeing to comply with the alternative voluntary redevelopment program described in Section 2 of ABX1 27 adding Part 1.9 (commencing with section 34192) of Division 24 of the Health and Safety Code (the “Alternative Redevelopment Program”); and

WHEREAS, the Alternative Redevelopment Program requires the participating communities to remit specific annual payments to the county auditor-controller for allocation to school entities and special districts; and

WHEREAS, in order to enable the continued operation and unrestricted activities of the CDC to serve the essential role of implementing the goals and objectives of the Redevelopment Plan, under the threat of dissolution pursuant to ABX1 26, and upon the contingencies and

reservations set forth herein, the City shall participate in the Alternative Redevelopment Program and make the Fiscal Year 2011-2012 community remittance, currently estimated to be \$2,112,991, as well as the subsequent annual community remittances as set forth in ABX1 27; 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 is aware that an action challenging the constitutionality of ABX1 26 and ABX1 27 has been 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, in the event that 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 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, the City is the lead agency concerning this Ordinance pursuant to the California Environmental Quality Act (codified as Public Resources Code Section 21000 *et seq*) ("CEQA") and the State CEQA Guidelines; and

WHEREAS, City staff has determined that this Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15378(b)(4), because the community remittances authorized hereunder are a government funding mechanism and fiscal activity, and do not involve any commitment to any specific project that may result in a potentially significant environmental impact; and

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

NOW, THEREFORE, the City Council of the City of Rosemead does hereby ordain as follows:

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

Section 2. Participation in the Alternative 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 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 section 34194 *et seq.*

Section 4. Effect of Stay or Determination of Invalidity. 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 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.

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 CDC is again authorized to enter into agreements under the CRL, the City will enter into an agreement with the CDC as authorized pursuant to Section 34194.2, whereby the CDC 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.

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 that may result in a potentially significant environmental impact.

Section 8. **Notice of Exemption.** The City Council hereby authorizes and directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles, California, in accordance with CEQA Guidelines.

Section 9. **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 City Hall, 8838 E. Valley Blvd., Rosemead California 91770. The custodian for these records is the City Clerk.

Section 10. **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.

Section 11. **Publication.** Within 15 days of adoption of this Ordinance, the City Clerk shall certify to the adoption of this Ordinance and cause it to be published in a newspaper of general circulation printed and published within the City of Rosemead, in accordance with Government Code § 36933.

Section 12. **Effective Date.** This Ordinance shall become effective thirty (30) days from its adoption.

PASSED AND ADOPTED by the City Council of the City of Rosemead, this 26th day of July, 2011, by the following vote:

STEVEN LY, MAYOR

ATTEST:
GLORIA MOLLEDA, CITY CLERK

APPROVED AS TO FORM:
RACHEL RICHMAN, CITY ATTORNEY