

RESOLUTION NO. 11-67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER APPROVING THE AGREEMENT TO TRANSFER TAX INCREMENT BY AND BETWEEN THE LANCASTER REDEVELOPMENT AGENCY AND THE CITY OF LANCASTER AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, the Lancaster Redevelopment Agency (“Agency”) is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 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 (“City Council”) of the City of Lancaster (“City”); and

WHEREAS, Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the CRL by ABX1 26 and ABX1 27, which measures purport to become effective immediately. ABX1 26 and ABX1 27, which are trailer bills to the 2011-12 budget bills, were approved by both houses of the Legislature on June 15, 2011 and signed by the Governor on June 28, 2011; and

WHEREAS, Part 1.85 of the CRL (“Part 1.85”) provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides that, thereafter, a successor agency to administer the enforceable obligations of the Agency and otherwise wind up the Agency’s affairs, all subject to the review and approval by an oversight committee; and

WHEREAS, Part 1.8 of the CRL (“Part 1.8”) provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution to certain “enforceable obligations” and to actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8; and

WHEREAS, the dissolution of the Agency would be detrimental to the health, safety, and economic well-being of the residents of the City and cause irreparable harm to the community and the Project Area, because, among other reasons, the redevelopment activities and projects made possible, implemented, and funded by the Agency are highly significant and of enduring benefit to the community and the City, and are a critical component of its future; and

WHEREAS, Part 1.9 of the CRL (“Part 1.9”) provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Alternative Voluntary Redevelopment Program established in Part 1.9 (“Program”); and

Resolution No. 11-67

WHEREAS, as a condition of the Agency's continued existence and operation of its redevelopment agency, the City is required to make certain annual remittances to the county auditor-controller pursuant to Chapter 3 of Part 1.9, beginning with a larger upfront remittance for the 2011-2012 fiscal year ("First Remittance"), to be paid in two equal installments on January 15, 2012 and May 15, 2012; and

WHEREAS, the City expects it will have sufficient moneys and revenues to fund an amount equal to the City's payment of the First Remittance and further expects to have sufficient moneys and revenues to fund the subsequent annual remittances required by Part 1.9; and

WHEREAS, the City's needs are such that it can commit to spend the funds received from the Agency pursuant to the Agreement to Transfer Tax Increment (defined below) to finance activities within the Project Area that are related to accomplishing the goals of the Community Development Plan; and

WHEREAS, the City intends to adopt the ordinance required by Part 1.9, in order to allow the Agency to continue in operation and performing its functions ("Ordinance"); and

WHEREAS, subject to the outcome of the CRA Action and conditioned upon the provisions of ABX1 27 being effective, the City and Agency desire to enter into an agreement pursuant to CRL Section 34194.2 whereby the Agency shall make an initial transfer of a portion of its tax increment to the City in an amount equal the First Remittance, and thereafter transfer amounts of tax increment equal to any subsequent remittance which the City is required to make to the county auditor-controller pursuant to the City's participation in the Program ("Agreement to Transfer Tax Increment"); and

WHEREAS, the Agency is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation is the subject of judicial challenge(s), including the action: California Redevelopment Association, et al v. Ana Matosantos, et al ("CRA Action"); and

WHEREAS, on August 17, 2011, the California Supreme Court issued a modified order staying the provisions of ABX1 27, except Health and Safety Code Section 34194(b)(2), and AB X1 26 except the provisions of Part 1.8; and

WHEREAS, the City Council, by the adoption of this resolution, does not represent, disclaim, or take any position whatsoever on the issue of the validity of ABX1 26 or ABX1 27, but rather the City seeks to comply with the Constitution and laws of the State of California, including Part 1.9, in order to preserve the ability of the Agency to continue to operate and thereby benefit the community; and

WHEREAS, the City Council has duly considered all other related matters and has determined that the City Council's entering into the Agreement to Transfer Tax Increment is in the best interests of the City, and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. The foregoing recitals are incorporated into this resolution by this reference, and constitute a material part of this resolution.

Section 2. That certain Agreement to Transfer Tax Increment to be entered into pursuant to CRL Section 34194.2, between the Agency and the City is hereby approved, subject to the outcome of the CRA Action and conditioned upon the provisions of ABX1 27 being effective, and the Executive Director is hereby authorized and directed to execute such agreement and to administer such agreement in accordance with its terms on behalf of the Agency.

Section 3. For fiscal year 2011-12 only, pursuant to CRL Section 34194.3, the Agency has determined that it is exempt from making the full allocation required to be made to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3 and 33334.6. The Agency has found and determined that based upon substantial evidence provided in the record before it, that there are insufficient moneys to meet its debt and other obligations, current priority program needs, or its obligations under Section 34194.2 and the agreement approved hereunder.

Section 4. This Resolution shall be effective immediately upon adoption.

Section 5. The Agency Secretary shall certify to the adoption of this resolution.

PASSED, APPROVED and ADOPTED, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS,
Mayor
City of Lancaster

Resolution No. 11-67

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____ City of Lancaster, CA, do hereby certify that this is a true and correct copy of the original Resolution No. 11-67, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

AGREEMENT TO TRANSFER TAX INCREMENT

This **AGREEMENT TO TRANSFER TAX INCREMENT** (“Agreement”) is entered into as of _____, 2011 (“Date of Agreement”), by and between the **CITY OF LANCASTER**, a California municipal corporation and charter city (“City”) and the **LANCASTER REDEVELOPMENT AGENCY**, a public body, corporate and politic (“Agency”).

RECITALS

- A. The Agency is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 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 (“City Council”) of the City of Lancaster.
- B. The Agency receives and has available to it tax increment revenues in accordance with and pursuant to CRL Section 33670(b) and Article XVI Section 16 of the California Constitution (“Tax Increment”).
- C. Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the CRL by ABX1 26 and ABX1 27, which measures purport to become effective immediately. ABX1 26 and ABX1 27, which are trailer bills to the 2011-12 budget bills, were approved by both houses of the Legislature on June 15, 2011 and signed by the Governor on June 28, 2011.
- D. Part 1.85 of the CRL (“Part 1.85”) provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides thereafter for a successor agency to administer the existing obligations of the Agency and otherwise wind up its affairs, with such actions as the successor agency may take subject to the review and approval by an oversight committee.
- E. Part 1.8 of the CRL (“Part 1.8”) provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution to pay certain “enforceable obligations” and provides for actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8.
- F. Part 1.9 of the CRL (“Part 1.9”) provides that an Agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Alternative Voluntary Redevelopment Program established in Part 1.9 (“Program”).

- G. Those cities or counties electing to participate in the Program, as a condition of its redevelopment agency's continued existence and operation, are required to make certain annual remittances ("Program Remittances") to the county auditor-controller pursuant to Chapter 3 of Part 1.9, beginning with an larger upfront remittance for the 2011-2012 fiscal year ("First Remittance"), to be paid in two equal installments on January 15, 2012 and May 15, 2012.
- H. The Agency is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation is the subject of judicial challenge(s), including the action: California Redevelopment Association, et al v. Ana Matosantos, et al ("CRA Action").
- I. On August 17, 2011, the California Supreme Court issued a modified order staying the provisions of AB X1 27, except Health and Safety Code Section 34194(b)(2), and AB X1 26 except the provisions of Part 1.8.
- J. Subject to compliance with CRL Section 34194.3, the Agency will have sufficient funds and revenues to fund an amount equal to the City's payment of the First Remittance and expects to have funds and revenues sufficient to fund amounts equal to the subsequent annual remittances required by Part 1.9.
- K. Subject to the outcome of the CRA Action and conditioned upon the provisions of ABx1 27 being effective, the City and Agency desire to enter into this Agreement pursuant to CRL Section 34194.2 whereby the Agency shall transfer portions of Tax Increment to the City in an amount equal to the First Remittance, and thereafter to transfer amounts of Tax Increment equal to any subsequent remittance which the City is required to make to the county auditor-controller pursuant to the City's participation in the Program.

AGREEMENTS

- 1. The Agency shall be liable to City for the payment of the Program Remittances in connection with the City's participation in the Program. The Agency agrees that no later than fifteen (15) days prior to the date upon which the City shall be statutorily required to make any full or partial payment of a Program Remittance, the Agency shall transfer funds to the City in an amount equal to such payment; each such payment by the Agency shall be referred to herein as a "Required Agency Payment" and, as such payments are combined, "Required Agency Payments." Interest shall accrue on any unpaid balance of the Required Agency Payments at an annual interest rate equal to the maximum rate permitted by Section 53531 of the Government Code. Interest on amounts paid as Required Agency Payments shall be deemed to begin accruing on the date upon which the City makes any required Program Remittance to the county auditor-controller.

2. The Agency pledges revenues available to the Agency under Section 33670(b) of the California Health & Safety Code (“Tax Increment”) to repayment of its indebtedness to the City hereunder; provided that such pledge is junior and subordinate to all outstanding bonds of the Agency (including without limitation the Agency’s obligations with respect to all outstanding bonds, and all refundings thereof), any refunding bonds issued by the Agency, and any additional bonds issued hereafter by the Agency. The City and Agency agree that such obligation by Agency to City may be further subordinated by agreement of the City and the Agency.
3. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency within the meaning of Section 33670 *et seq.* of the Community Redevelopment Law.
4. The City agrees to use the funds it receives pursuant to this Agreement in accordance with the laws of the State of California, including CRL Section 34194.2, all as applicable.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF LANCASTER

By: _____
City Manager

ATTEST:

City Clerk

LANCASTER REDEVELOPMENT AGENCY

By: _____
Executive Director

ATTEST:

Agency Secretary

APPROVED AS TO FORM

City Attorney/Agency Council