



Meeting Date: 07/26/11

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input checked="" type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other

Prepared By: Kymerly R. Horner

*K.H.*

Agenda Item No.

**0-1**

Reviewed By: City Manager

*[Signature]*

City Attorney

*[Signature]*

Finance

*[Signature]*

Other (Specify)

**DATE:** July 18, 2011

**TO:** City Council  
Community Development Commission

**FROM:** Curtis P. Cannon, Director of Community Development Department  
Community Development Department

*[Signature]*

**SUBJECT: Implementation of an Alternative Redevelopment Program Pursuant to Part 1.9 of the California Health and Safety Code, as Amended, Including Adoption of an Enabling Ordinance and Execution of a Remittance Agreement**

**RECOMMENDATION**

That City Council:

1. Introduce an Ordinance (Attachment No. 1) for first reading, authorizing the City to participate in a voluntary alternative redevelopment program under applicable provisions of Part 1.9 of the California Health and Safety Code, as amended, and adopt said Ordinance at the Council's next regular or adjourned regular meeting following the first reading.
2. Approve and authorize the Mayor to execute the Remittance Agreement (Attachment No. 2), continuing redevelopment under applicable provisions of Part 1.9 of the California Health and Safety Code, as amended, including the payment of annual remittances to the county auditor-controller pursuant to Section 34194 or 34194.5 thereof.

That the Community Development Commission:

1. Approve and authorize the Chairman to execute the Remittance Agreement (Attachment No. 2), requiring the Community Development Commission ("Commission") to transfer funds to the City in an amount sufficient for the City to make annual remittances to the county auditor-controller with net available tax increment in this current fiscal year and forthcoming fiscal years.

**DISCUSSION**

**Legislative Summary:** As part of the State’s recent budgetary process, two specific pieces of legislation were adopted and signed by the Governor that effectively change how redevelopment may be implemented from this point forward. Assembly Bill X1 26 (the “Dissolution Bill,”(Attachment # 3), while Assembly Bill X1 27 (the “Continuation Bill,” (Attachment # 4) allows redevelopment to continue subject to remitting annual tax increment payments to the State. Essentially, the outcome is one that decreases tax increment revenues previously received by redevelopment agencies in exchange for the ability to continue redevelopment, albeit with diminished financial capacity. The initial remittance in FY 2011-12 amounts to approximately 37 percent of Oxnard’s total anticipated tax increment, while re-occurring payments from FY 2012-13 and beyond amount to roughly 9 percent of the total. These revenue diversions are in addition to existing statutory and contractual “pass-through” payments to local taxing agencies for which the Commission is presently obligated.

<b>OXNARD REDEVELOPMENT PROJECT AREAS</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>Beyond FY 2012-13</b>
<b>Estimated Gross Tax Increment (A)</b>	\$18,955,400	\$18,955,400	2% Growth
<b>Other Miscellaneous Income (A)</b>	\$4,306,000	\$4,306,000	Variably
<b>Pass Thru Payments to Other Agencies (A)</b>	(\$4,131,000)	(\$4,131,000)	Variably
<b>Estimated State Remittance Payment (B)</b>	(\$7,004,858)	(\$1,681,166)	2% Growth
<b>Net Available Local Tax Increment</b>	\$12,125,542	\$17,449,234	

**Sources:**

- A. *City of Oxnard FY 2011-2013 Recommended Budget*, City Manager’s Office, June 14, 2011.
- B. *AB26 and AB27 Decision Analysis*, HdL Coren & Cone, The LdL Companies, July 12, 2011.

**Notes:**

1. Estimated Gross Tax Increment includes 20% contribution to the LMIHF (roughly \$3,791,080 in each of the forthcoming fiscal years).
2. State Remittance Payments equal to 9% of Gross Tax Increment beyond FY 2012-13 is estimated based on statutory formulas and a 2% growth rate.
3. All figures shown are estimated and subject to change. Updated estimates of State Remittance Payments from the Department of Finance are expected on August 1, 2011.

**Previous Actions:** Anticipating that the State might either eliminate redevelopment agencies or divert tax increment revenues (or both), the City Council and Commission entered into a Cooperation Agreement on January 18, 2011, as further clarified on March 8, 2011, by adoption of Resolution Nos. 13,351 and 147, respectively. By authority of these actions the City was obligated and authorized to continue the implementation of redevelopment within the Ormond Beach, Southwinds, Downtown Renewal, Central City Revitalization Project and Historical Enhancement and Revitalization of Oxnard (“HERO”) Project Areas. The City’s responsibility was expressly limited to the assets and revenues available to the Commission that have been, or in the future will be, transferred to the City. As part of the State’s recent budgetary process, the Dissolution Bill (Assembly Bill X1 26), expressly invalidates any cooperative agreements entered into since January 1, 2011. The provisions of this Bill, unless successfully challenged in Court, effectively nullify Resolution Nos. 13,351 and 147.

**Constitutional Challenge:** The California Redevelopment Association (“CRA”) and League of California Cities (“League”) contest the Constitutionality of actions taken by the State in regard to the diversion of tax increment revenues. Together, the CRA and League are litigating the matter in the California Supreme Court and on July 18, 2011 filed a Stay to the California Supreme Court to overturn

AB 1X 26 and AB 1X 27 because they violate the Constitution. While it is anticipated that a stay on State's budgetary actions (Assembly Bills X1 26 and X1 27) will be issued before the October 1 sunset date of existing redevelopment agencies, the Dissolution and Continuation Bills remain law. Consequently, the City Council and Commission are urged to proceed as if the legal challenge(s) is/are not filed. Keeping the City's options open, the Enabling Ordinance (Attachment No. 1) reserves the right to challenge the validity of any or all provisions of Assembly Bills X1 26 and X1 27 and/or repeal the Ordinance as the City deems appropriate.

**Interim Actions:** Until adoption of a continuation ordinance with concurrent assumption of remittance payment obligations, the City is prohibited from: (i) adding redevelopment staff beyond the number of personnel employed as of January 1, 2011; (ii) incurring new indebtedness including Owner Participation Agreements, Disposition and Development Agreements, loan/grant agreements (e.g., housing rehabilitation, commercial façade improvements, etc.), or similar obligations; (iii) amending the terms of existing obligations; (iv) increasing deposits to the LMIHF beyond the minimum level required by law; or (v) entering into any new contractual arrangement except those necessary to implement enforceable obligations incurred prior to June 29, 2011. Under the provisions of Assembly Bills X1 26 and X1 27, the City Council must enact a continuation ordinance before November 1, or else redevelopment authority will permanently cease within Oxnard.

**Remittance Payments:** As previously noted, the initial remittance in FY 2011-12 amounts to approximately 37 percent of Oxnard's total anticipated tax increment, while re-occurring payments from FY 2012-13 and beyond amount to roughly 9 percent of the total. Staff has determined that the first year payment can be taken from the fund balances of the redevelopment project areas. The requirement to make remittance payments lies with the City, not with the Commission. Consequently, a Remittance Agreement (Attachment No. 2) is required to provide for the transfer of funds by the Commission to the City in an amount sufficient for the City to fulfill its payment obligations.

**Alternative Remedy:** As an alternative to continuing redevelopment under the statutory scheme of Assembly Bill X1 27, the City could opt simply to forgo further action and allow the operative provisions of the Dissolution Bill to take place. In such event, the City would not be required to make remittance payments to the State, but would be required to: (i) discontinue further redevelopment activities; (ii) adopt an Enforceable Obligations Schedule by August 27, 2011; and (iii) expeditiously wind down the affairs of the Commission under the purview of a seven-member oversight board comprised of a broad array of appointed stakeholders. In its capacity as successor agency, the City's authority would be limited simply to that of fulfilling existing enforceable obligations, disposing of assets presently held by the Commission, remitting unencumbered tax increment to the County for distribution to tax agencies, and performing housing functions previously undertaken by the Commission (either directly or by assignment to other qualified entities such as the Housing Authority.)

## **ENVIRONMENTAL IMPACT**

By authority of Title 14, Division 6, Chapter 3, Article 19, Section 15320 of the California Code of Regulations (commonly known as the California Environmental Quality Act "CEQA" Guidelines), changes in the organization or reorganization of local governmental agencies are categorically exempt from CEQA so long as these actions do not change the geographical area in which previously existing powers are exercised. Approval and adoption of the Enabling Ordinance and Remittance Payment Agreement can constitute a reorganization of redevelopment authority with the City of Oxnard without

either a change in geographic scope or governmental powers beyond those that currently exist. Accordingly, these actions are exempt from environmental review.

## **FINANCIAL IMPACT**

Remittance Payments to the State of California, if approved by the City Council and Commission, will amount to 37 percent of the Commission's total anticipated tax increment in FY 2011-12, while re-occurring payments from FY 2012-13 and beyond would amount to approximately 9 percent of the total. These tax diversions are in addition to existing statutory and contractual "pass-through" payments to local taxing agencies for which the Commission is presently obligated. The net reduction in tax increment revenues will diminish the City's capacity of engaging in further redevelopment activities. According to estimates provided by HdL Coren & Cone, The LdL Companies, July 12, 2011, the City (should it choose not to continue redevelopment) would be required to forfeit \$18.5 million annually in tax increment (less sums required to pay existing obligations). Of the balance of funds distributed to tax agencies, approximately \$3.6 million would be returned to the City's General Fund.

- Attachment #1 - Enabling Ordinance
- #2 - Remittance Payment Agreement
- #3 - Assembly Bill ABX1 26
- #4 - Assembly Bill ABX1 27
- #5 - CRA Questions and Answers (For Information Only)

Note: Attachment No. 3 (Assembly Bill ABX1 26) and Attachment No. 4 (Assembly Bill ABX1 27) have been provided to the City Council. Copies are available for review at the Help Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on Monday.