



FINANCIAL IMPACT

The initial Remittance from the City is currently estimated at approximately \$8 million for fiscal year 2011-2012. The final amount will be published by the State Director of Finance by August 1, 2011. This payment obligation will be an obligation of the City, separate and apart from the Agency. Subsequent to the enactment of this Ordinance, the City and Agency will enter into an agreement pursuant to Section 34194.2 of the Health and Safety Code (introduced by the Voluntary Program Act) whereby the Agency will transfer an amount of funds up to the amount of the Remittance made by the City to the County Auditor-Controller ("Agreement"). For this payment to the City, the Agency will be allowed to use the fiscal year 2011-2012 Low and Moderate Income Housing Fund (the "LMIHF") allocation and other available Agency funds. The fiscal year 2011-12 LMIHF amount is currently estimated to be \$5 million. The remaining balance of the initial opt-in Remittance will be in the form of a loan from the City's General Fund. Both Remittance payments are to be made by the City. Pursuant to Health and Safety Code 34194.2, all money received by the City from the Agency pursuant to the Agreement must be used "for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals."

RECOMMENDATION


Staff recommends that the City Council:

1. Adopt the attached non-binding resolution indicating the City's intention to enter into the Program and pass the Ordinance; and
2. Introduce and conduct the first reading of the attached Ordinance entitled AN ORDINANCE OF THE CITY OF GARDEN GROVE ELECTING TO COMPLY WITH AND PARTICIPATE IN THE STATE OF CALIFORNIA'S ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM CONTAINED IN PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE.

  
GREG BLODGETT  
Senior Project Manager

Attachment 1: City Council Resolution of Intent  
Attachment 2: City Council Ordinance

**Recommended for Approval**

  
**Matthew Ferial**  
City Manager

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DECLARING ITS INTENTION TO ENACT AN ORDINANCE WHEREBY THE CITY SHALL ELECT COMPLY WITH AND PARTICIPATE IN THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM CONTAINED IN PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the Garden Grove Agency for Community Development ("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 Garden Grove ("City"); and

WHEREAS, the existing Garden Grove Community Project ("Redevelopment Project") and the boundaries of the Community Project Area were duly established by various ordinances of the City Council, which ordinances approved a redevelopment plan for the Garden Grove Community Project, as amended, all in compliance with all requirements of the CRL; 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, 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

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 Redevelopment Project that are related to accomplishing the goals of the Redevelopment Project; 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, the City intends to adopt the Ordinance and desires to forestall the dissolution of the Agency until November 1, 2011 to allow the City sufficient time to enact the Ordinance; and

WHEREAS, 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 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 ("Agreement to Transfer Tax Increment"); and

WHEREAS, the City is aware that the validity, passage, and applicability of ABX1 26 and ABX1 27 may become the subject of a judicial challenge; and

WHEREAS, the City, 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 has duly considered all other related matters and has determined that the City's participation in the Program 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, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES RESOLVE AS FOLLOWS:

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

Section 2. Pursuant to CRL Section 34193(b), the City hereby expresses its intent to adopt the Ordinance to comply with Part 1.9. This resolution is that "nonbinding resolution of intent" referred to in CRL Section 34193(b) and shall be

interpreted and applied in all respects in accordance with such section and Part 1.9, to the fullest extent permitted by law.

Section 3. On or before October 1, 2011, the City Manager is hereby authorized and directed to notify the county auditor, the State Department of Finance, and the Controller of the State concerning the resolution, in accordance with Section 34193(b).

Section 4. The City Attorney is hereby authorized to bring an action in the Superior Court pursuant to CRL Sections 33500 and 33501 to determine the validity of the ordinance referred to in this resolution, or the validity of any bonds contemplated to be issued by the agency or other material contracts of the Agency, or any findings of the City Council related thereto, upon the determination of the City Manager that such action is reasonably necessary or appropriate to facilitate the consummation of any agency transaction for which governing board approval has been given.

Section 5. The City Clerk shall certify to the adoption of this Resolution.

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF GARDEN GROVE ELECTING TO COMPLY WITH AND PARTICIPATE IN THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM CONTAINED IN PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the Garden Grove Agency for Community Development ("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 Garden Grove ("City"); and

WHEREAS, the existing Garden Grove Community Project ("Redevelopment Project") and the boundaries of the Community Project Area were duly established by various ordinances of the City Council, which ordinances approved a redevelopment plan for the Garden Grove Community Project, as amended, all in compliance with all requirements of the CRL; 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, 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

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 will have sufficient moneys and revenues to fund an amount equal to the City's payment of the First Remittance and 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 Redevelopment Project that are related to accomplishing the goals of the Redevelopment Project, including but not limited to attraction of employment opportunities, rehabilitation of commercial and residential structures, improvement and construction of public infrastructure, development of affordable housing, retention and expansion of businesses, and elimination of blight; and

WHEREAS, the City and Agency intend to execute 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 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 ("Agreement to Transfer Tax Increment"); and

WHEREAS, the City is aware that the validity, passage, and applicability of ABX1 26 and ABX1 27 may become the subject of a judicial challenge; and

WHEREAS, the City, by the adoption of this Ordinance, 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 is the lead agency concerning this Ordinance pursuant to the California Environmental Quality Act (codified as Public Resources Code Sections 21000 *et seq*) ("CEQA") and the State CEQA Guidelines; and

WHEREAS, City staff has determined that the Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15378 (b)(4), because such authorizations are not considered a project subject to CEQA review. The community remittance is a government funding mechanism and fiscal activity, which does not involve any commitment to any specific project which may result in a potentially significant environmental impact; and

WHEREAS, the City has duly considered all other related matters and has determined that the City's participation in the Program 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, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

1. The foregoing recitals are true and correct.
2. The City hereby finds that (i) the dissolution of the Agency would be detrimental and cause irreparable harm to the community and to the health, safety, and economic well-being of the citizens of the City, and (ii) the types of 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

3. The City hereby commits to spend those funds received under the Agreement to Transfer Tax Increment or otherwise pursuant to CRL Section 34194.2 to finance activities within the Redevelopment Project that are related to accomplishing the goals of the Redevelopment Project; and

4. The City hereby ordains that the City shall comply with the Constitution and the laws of the State of California, including Part 1.9, including the determination of remittance amounts, appeal rights in relation thereto, and the making of the remittances referred to in CRL Section 34194(b) and (c) at the times and in the manner described in Part 1.9. This ordinance is that ordinance referred to in CRL Section 34193 and shall be interpreted and applied in all respects so as to comply with Part 1.9, to the fullest extent permitted by law.

5. On or before November 1, 2011, the City Manager is hereby authorized and directed to notify the county auditor-controller, the Controller of the State, and the State Department of Finance that the City agrees to comply with the provisions of Part 1.9 as provided under Section 34193, such notice to be in accordance with CRL Section 34193.1.

6. The City's remittances to the county auditor-controller made pursuant to Part 1.9 may be paid from any legally available funds of the City not otherwise obligated for other uses in accordance with Section 34194.1. Nothing herein is intended or shall be interpreted to require any payments or impose any financial or

other obligation of the City other than in accordance with the Constitution and laws of the State of California, including Part 1.9.

7. The City Council determines that approval of this Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15378 (b)(4), because such approval is not considered a project subject to CEQA review. The payment is a government funding mechanism and fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant environmental impact.

8. The City Council hereby authorizes and directs that a Notice of Exemption shall be filed with the Clerk of the Board of Supervisors of the County of Orange, California, within five (5) working days following the date of adoption of this Ordinance.

9. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

10. This Ordinance shall be effective thirty (30) days from and after the date of the final passage and adoption hereof.