Agency Meeting
December 20, 2011
Agency Item 4A

Honorable Chair and Members
of the Torrance Redevelopment Agency
City Hall
Torrance, California

Members of the Agency:

SUBJECT: Redevelopment Agency - Approve first installment for 2012 of the Voluntary Alternative Redevelopment Program remittance to Los Angeles County Auditor-Controller, as required by ABX1-26 and ABX1-27.

Expenditure: $815,000

RECOMMENDATION

Recommendation of the Deputy Executive Director that the Redevelopment Agency approve under protest the first installment of the Voluntary Alternative Redevelopment Program (VARP) payment, as required by ABX1-26 and ABX1-27. This remittance would be the first of two equal payments totaling $1.63 million which is due to the Los Angeles County Auditor-Controller no later than January 15th in order to extend the life and function of the City of Torrance Redevelopment Agency.

FUNDING

Funding is available in the Redevelopment Agency Low-Mod Housing Set-Aside Fund.

BACKGROUND AND ANALYSIS

As part of the California budget package, Governor Jerry Brown signed the Redevelopment dissolution bills ABX1-26 and ABX1-27 into effect on June 29, 2011. While ABX1-26 dissolves Redevelopment Agencies, ABX1-27 provides a "voluntary" option for Agencies who wish to remain in existence. The provisions of ABX1-27 require an Agency to remit a payment to the County Auditor-Controller in accordance with the Voluntary Alternative Redevelopment Program (VARP). On Tuesday, July 19, 2011, the Agency adopted Ordinance No. 3748 authorizing the City to participate in the ABX1-27 VARP and issue a total of $1.63 Million to the County Auditor-Controller (Attachment A). This payment is to be made in two equal parts of $815,000, due in January and May of FY11-12. The first year of participation may be paid using Housing Set-Aside Funds.

Since the Agency approved the VARP ordinance, there have been several updates on the status of the legislature. On July 18th, 2011 the California Redevelopment Association (CRA) and the League of California Cities (League) filed a law suit against the State asserting that ABX1-26 & ABX1-27 violate constitutional protections for Redevelopment funds. On August 11th, the Supreme Court announced that it would hear the law suit and issued a partial stay on the effectiveness of the bills. The Supreme Court is expected to make a decision in early January of 2012, leaving little time for Agencies to act between the Court's decision and the January 15th payment deadline. If the Supreme Court does decide that AB1X-26 & AB1X-27 are unconstitutional, redevelopment agencies will not have to make the January and May payments as stipulated under ABX1-27. However, due to the

uncertainty of the Supreme Court's decision, agencies are being advised to prepare to make a timely remittance payment to the County Auditor-Controller as a precautionary measure.

Redevelopment staff recommends that the Agency approve under protest the first installment of the required remittance to the County Auditor Controller under AB1X-27, in order to extend the life and function of the City of Torrance Redevelopment Agency should the Supreme Court uphold the constitutionality of AB1X-26 and AB1X-27

Respectfully submitted,

JEFFERY W. GIBSON
Deputy Executive Director

By _____
Gregg Lodan, AICP
Planning Manager

CONCUR:

_____
Jeffery W. Gibson
Deputy Executive Director

_____
LeRoy J. Jackson
Executive Director

Attachment:
A) City Council Item 12C and attachments from 07/19/2011

ATTACHMENT A

Council Meeting of
July 19, 2011

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Manager – Adopt Ordinance to participate in ABX1 27 Voluntary Alternative Redevelopment Program (VARP).

RECOMMENDATION

Recommendation of the City Manager that City Council adopt an ORDINANCE authorizing the City to participate in ABX1 27, the Voluntary Alternative Redevelopment Program (VARP), and approve an ordinance summary for publication.

Funding

No funding is required for the requested action. If approved funding in an amount of approximately $1.633 million will be required to make the payment required by ABX1 27, funds are available in the Housing Set Aside Fund.

BACKGROUND/ANALYSIS

On June 15, 2011, the State Legislature passed two bills related to redevelopment: ABX1 26 and AB1X 27. Both bills were signed into law by the Governor on June 29, 2011. ABX1 26 requires the dissolution of redevelopment agencies and the sale of its assets and the proceeds to be remitted to the state for redistribution as property taxes to the state, county and municipalities. ABX1 27 provides for a "voluntary" alternative redevelopment program (VARP). VARP exempts redevelopment agencies from dissolution if an ordinance is enacted before November 11, 2011 for compliance with the new legislation and authorization to make certain required payments required by VARP.

If the proposed Ordinance is adopted the following timeline will take place:

- **August 1, 2011:** Department of Finance (DOF) is set to release FY 2011-12 payment amounts for all redevelopment agencies.
- **August 15, 2011:** Deadline for City to submit appeal to DOF regarding payment demand amount from the 8/1/11 notice (if City/Agency disagree).
- **August 28, 2011:** Deadline for RDA to submit its enforceable debt obligation schedule as defined in AB1X 26.
  - If City has already had its second reading of ordinance "opting in" to payments required by AB1X 27, agency is exempted from this requirement.

- **October 1, 2011**: Deadline for Agency to file Statement of Indebtedness. Important note: Any debt incurred after 10/1/11 and not shown on 10/1/11 Statement of Indebtedness is subject to onerous new statutory pass-through for schools.
- **January 15, 2012**: First half of FY 2011-12 State payment is due.
- **May 15, 2012:** Second half of FY 2011-12 State payment is due.

The Ordinance before Your Honorable Body this evening, if enacted, will allow for the Redevelopment Agency to move from the state-enacted suspension back to a functioning Redevelopment Agency for one year. Subsequent years will require additional payments. This year's payment is allowed to be made from the Housing Set-Aside also known as the 20% Housing Set-Aside. In future years the payment must be made from the General Fund. Also there may be clean-up legislation that requires reimbursement of this year's payment back to the 20% Housing Set-Aside Fund.

If the Ordinance is not approved, the Agency will remain suspended and the State will require the dissolution of the Agency and the sale of all assets. The process for selling the assets requires the City to obtain a fair market appraisal and then market the properties. Proceeds from the sales will then be returned to the State for re-distribution as property tax.

Staff recommends that the City Council adopt the proposed Ordinance, which will set in motion the process required to retain the Redevelopment Agency.

Respectfully submitted,

LeROY J. JACKSON
City Manager

By: _____
Brian K. Sunshine
Assistant to the City Manager

CONCUR:

_____
LeRoy J. Jackson
City Manager

Attachments: A) VARP Ordinance
B) Ordinance Summary

Attachment A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, DETERMINING IT WILL COMPLY 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 TORRANCE

WHEREAS, the City Council of the City of Torrance ("City") approved and adopted the Redevelopment Plans for the Skypark, Downtown, and Industrial Redevelopment Projects ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Torrance ("Agency") is engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

WHEREAS, 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 industries to create jobs and expand the local economy; and

WHEREAS, over the next few years, the Agency hopes to implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, stimulate and expand the Project Area's economic growth, create and develop local job opportunities and alleviate deficiencies in public infrastructure, to name a few; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments; and

WHEREAS, specifically, AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, AB 1X 27 provides that a community may participate in an "Alternative Voluntary Redevelopment Program," in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

WHEREAS, the Alternative Voluntary Redevelopment Program requires that the community agree by ordinance to remit specified annual amounts to the county auditor-controller; and

WHEREAS, under the threat of dissolution pursuant to AB 1X 26, and upon the contingencies and reservations set forth herein, the City shall make the Fiscal Year 2011-2012 community remittance, currently estimated to be One Million Six Hundred Thirty-Two Thousand Six Hundred Fifty-Nine Dollars ($1,632,659), as well as the subsequent annual community remittances as set forth in the CRL; 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 understands and believes that an action challenging the constitutionality of AB 1X 26 and AB 1X 27 will be 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, to the extent there is a final determination that AB 1X 26 and AB 1X 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 AB 1X 26 and AB 1X 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Alternative Voluntary Redevelopment Program's payment obligation of AB 1X 26 and AB 1X 27, the City shall not be obligated to make any community remittance for the duration of such injunction, restraint, or stay; and

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

THE CITY COUNCIL OF THE CITY OF TORRANCE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

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

Section 2. **Participation in the Alternative Voluntary 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 AB 1X 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 AB 1X 26 and AB 1X 27 or determines that AB 1X 26 and AB 1X 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 AB 1X 26 and AB 1X 27 are unconstitutional. If there is a final determination that AB 1X 26 and AB 1X 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 AB 1X 27.

Section 6. **Additional Understandings and Intent.** It is the understanding and intent of the City Council that, once the Agency is again authorized to enter into agreements under the CRL, the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2, whereby the Agency 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. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or assets to make the 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. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Cruz in accordance with CEQA Guidelines.

Section 8. **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 3031 Torrance Blvd., Torrance, CA 90503. The custodian for these records is Sue Herbers.

Section 9. **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 10. Certification; Publication. 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 of Torrance, 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.

Section 11. Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

INTRODUCED and APPROVED this _____ day of _____, 2011.

ADOPTED and PASSED this _____ day of _____, 2011.

_____
Frank Scotto, Mayor

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By:_____

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ORDINANCE NO. _____

SUMMARY

On _____, 2011, the City Council of the City of Torrance adopted Ordinance number _____ determining that it will comply with the Voluntary Alternative Redevelopment Program in order to permit the continued existence and operation of the Redevelopment Agency of the City of Torrance.

As part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments. AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011. AB 1X 27 provides that a community may participate in an "Alternative Voluntary Redevelopment Program," in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code. The Alternative Voluntary Redevelopment Program requires that the community agree by ordinance to remit specified annual amounts to the county auditor-controller; and

*****City Clerk to add a paragraph stating that copies of the ordinance are available at the City Clerk's office and stating the names of the City Council members that voted in favor and those that voted against.*****