

## CITY COUNCIL

For City Clerk's Use:

☐

APPROVED

☐

DENIED

Reso No. \_\_\_\_\_

File No. \_\_\_\_\_

Ord No. \_\_\_\_\_

Agenda Item No.: 6  
Date: August 17, 2011

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Gilbert Rojas, Director of Finance  
Jennifer K. McCain, Assistant City Attorney

**SUBJECT:** Approval of a Voluntary Alternative Redevelopment Program and Authorization to Expend Funds for Required State Payments

**RECOMMENDATION:**

It is requested that Council adopt Ordinance 2011-13, which will be effective immediately, and also introduce Ordinance No. 2011-11 to permit the continued existence and operation of the Redevelopment Agency of the City of Escondido.

**FISCAL ANALYSIS:**

The estimated payment to the State which is required to participate in this program and continue redevelopment will be \$9.5 million for FY 11/12 and \$2.2 million dollars every fiscal year thereafter for the life of the plan. According to current staff projections, the Redevelopment Agency can only afford to cover a portion of the State payments which are due in order to maintain the redevelopment program in the short term. Thus, the City's General fund will have to contribute by means of a loan to the Agency of approximately 10-11 million dollars over the next 5 fiscal years. However, by FY 2017 it is projected that the Agency will have sufficient funds to cover the 2.2 million dollar payment. Staff is also proposing to take advantage of the state legislation that would allow FY 11/12 Housing funds to be used for the FY 11/12 state payment. It has been determined that \$3.5 million dollars of the projected \$4.6 million in current year housing revenues can be used by the Agency.

**BACKGROUND:**

As the State of California attempted to cope with a significant budget deficit this year, the Governor proposed eliminating local redevelopment agencies as part of the fiscal year 2011-2012 State budget, in order to redirect \$1.7 billion in local revenues to solve an estimated \$26 billion State budget shortfall. On June 29, 2011, the legislature approved, and the governor signed, the main budget bill SB 87 and bills AB1X 26 (Dissolution Bill) and AB1X 27 (Continuation Bill), approving the budget and effectively eliminating redevelopment agencies throughout the state.

The Dissolution Bill is a complex bill that intends, in its simplest form, to discontinue local redevelopment activity and to make redevelopment agency assets and revenues available to the State to pay State obligations by tasking a successor agency with winding down an agency's operations and liquidating its assets.

Under limited circumstances, the Dissolution Bill provides for redevelopment agencies to honor "enforceable obligations" entered into prior to June 29, 2011. The Dissolution Bill defines "enforceable obligations" as bonds; loans; payments to the federal government or imposed by state law, judgments, or settlements; and contracts, including contracts necessary for the continued administration or operation of the agency. Except to carry out enforceable obligations, the Dissolution Bill prohibits agencies from acquiring or disposing of real property and other assets such as accounts receivable, cash deposits, contract rights, or grant proceeds.

The Dissolution Bill provides for the City to continue the Agency's housing activities and the State will transfer the Agency's housing assets to the City, excluding any funds in the low and moderate income housing fund. The provision only provides funding for housing purposes on a going-forward basis subject to payments to satisfy State obligations.

The Continuation Bill provides an opportunity to preserve redevelopment in the form of an alternative voluntary program that requires cities and counties with redevelopment agencies to accept certain responsibilities and make certain annual payments to the State in order to preserve redevelopment activities. With the proposed Ordinances, the City opts-in, under protest, to the provisions of the Continuation Bill. Since the Continuation Bill provides that the Agency would continue only upon "enactment" of an ordinance, staff believes it is important to adopt an Emergency Ordinance to be effective immediately as well as a regular ordinance that would supersede the Emergency Ordinance upon its effective date.

The Escondido Redevelopment Agency ("Agency") was established in 1984 in connection with the adoption of the Escondido Redevelopment Plan ("Plan") and a redevelopment project area ("Escondido Redevelopment Project Area"). The Agency later combined with the Escondido Housing Authority to form the Community Development Commission. The Commission consists of the members of the Escondido City Council. The City and the Commission are legally separate entities.

A key project of the Escondido Redevelopment Project Area was a proposed Civic Center consisting of a city hall and a performing arts, museum, and educational complex. (It was defined in 1991 as "Civic Center" meaning the Lyric Theater, Community Theater, Art Center/Workshops, Conference Center, and associated parking facilities, including furnishing, fixtures and equipment for such facilities.) The issue of whether the project should be undertaken was submitted to the voters, where it passed at a special election held on June 4, 1985.

If the City decides to dissolve the Escondido Redevelopment Agency by not adopting the necessary ordinance and making the required payments, a successor agency would be established at the county level. The successor agency would operate under the supervision of a seven-member oversight board, consisting of members appointed by the county board of supervisors, the mayor of the City of Escondido, the largest special district within the agency boundaries, the county superintendent of education, and the chancellor of community colleges. The Continuation Bill vests

the oversight board with the authority to direct and approve the activities of the former redevelopment agency with the intention of winding down the agency's operations and liquidating its assets to maximize the value to the State.

In the case of the Escondido Redevelopment Agency, the successor entity would control whether or not to honor a loan from the Agency to the City (unrelated to the Civic Center) of \$14 million that is still outstanding. The successor agency would also be in control of all assets owned by the Agency. There is also concern that the successor agency may not pay the annual 2007 Lease Revenue bond payment in the amount of 7 million dollars and that the City General Fund would have to make that payment.

According to staff projections, the Redevelopment Agency has a significant amount of income (bonding capacity) starting in FY 2019/2020 that could be used for future projects provided the City does not choose to be paid back all loan amounts until after FY 24/25.


Because of various deadlines in the legislation, uncertainty surrounding the legislation, and ongoing litigation challenging the legislation, it is recommended that the City Council take a twofold approach to continue redevelopment activities. Ordinance 2011-13 is proposed as an emergency measure authorized under California Government Code Section 36937, and requires specific findings. Ordinance 2011-13 would be effective immediately upon adoption. In the event the emergency findings are questioned in any manner, the regular introduction and adoption of Ordinance 2011-11 will then suffice to accomplish the same objective.


In addition, the Dissolution Bill requires the City Council to adopt an "Enforceable Obligation Schedule," on or before August 27, 2011. The Enforceable Obligation Schedule is attached and must be adopted at a public meeting of the City Council, posted on the City's website and transmitted to the San Diego County Auditor Controller, the State Controller and the Department of Finance. Due to the uncertainty surrounding the legislation, staff recommends Council approval of the Enforceable Obligation Schedule.

#### ENVIRONMENTAL REVIEW

This Ordinance is exempt from the California Environmental Quality Act (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 any potentially significant environmental impact.

Respectfully submitted,

  
Gilbert Rojas  
Director of Finance

  
Jennifer K. McCain  
Assistant City Attorney

# **ENFORCEABLE OBLIGATION PAYMENT SCHEDULE** Per AB 26 - Section 34167 and 34169 (\*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total
					Aug**	Sept	Oct	Nov	Dec	
1) 2001 Lease Revenue Bonds	Bank of New York	Funding for Center for the Arts		2,627,730		2,627,730				2,627,730
2) 2007A Lease Revenue Bonds	Bank of New York	Funding for Center for the Arts		5,615,400		4,870,650				4,870,650
3) 2007B Lease Revenue Bonds	Bank of New York	Funding for Center for the Arts		2,422,067		2,081,962				2,081,962
4) Bond Expense	Bank of New York	Bond Trustee Admin Fees		15,000		3,000				3,000
5) Advances from General Fund	City of Escondido	Program Administration		0						0
6) Advance from Traffic Impact Fund	City of Escondido	Capital Improvement		0						0
7) Advance from Housing Set Aside Fund	City of Escondido	ERAF Payments		0						0
8) Due to General Fund	City of Escondido	Program Administration		13,402,961				1,680,109	4,693,048	6,373,157
9) Governing Board Costs	Members of the Governing Board	Payroll for Governing Board		18,260	1,522	1,522	1,522	152	1,522	6,240
10) Audit Fees	Unknown	Settlement Agreement Obligation		20,000			20,000			20,000
11) Property Tax Admin Fee	County of San Diego	Tax Increment Administration		255,581					7,687	7,687
12) Transfer to General Fund	City of Escondido	AB 1X 26 & 27 Obligation		4,821,933						0
13)										0
14)										0
15)										0
16)										0
17)										0
18)										0
19)										0
20)										0
21)										0
22)										0
23)										0
24)										0
25)										0
26)										0
27)										0
28)										0
29)										0
30)										0
Totals - This Page			0	28,198,922	1,522	9,584,864	21,522	1,680,261	4,702,237	15,980,406
Totals - Page 2			0	0	0	0	0	0	0	0
Totals - Page 3			0	0	0	0	0	0	0	0
Totals - Page 4			0	0	0	0	0	0	0	0
Totals - Other Obligations			0	9,284,054	0	0	5,014,784	0	1,149,492	7,275,368
Grand total - All Pages			0	38,482,976	1,522	9,584,864	5,036,306	1,680,261	5,851,729	23,265,772

\* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 1/30/11.)  
 If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.  
 \*\* Include only payments to be made after the adoption of the EOPS.

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (\*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total
					Aug**	Sept	Oct	Nov	Dec	
1) 1992 Revenue & Cap. Appr. Bonds	Bank of New York	Funding for Center for the Arts	4,480,000	0						0
2) 2001 Lease Revenue Bonds	Bank of New York	Funding for Center for the Arts	2,627,730	2,627,730		2,627,730				2,627,730
3) 2007A Lease Revenue Bonds	Bank of New York	Funding for Center for the Arts	41,112,900	5,615,400		4,870,650				4,870,650
4) 2007B Lease Revenue Bonds	Bank of New York	Funding for Center for the Arts	17,225,211	2,422,057		2,081,962				2,081,962
5) Bond Expense	Bank of New York	Bond Trustee Admin Fees	0	15,000		3,000				3,000
6) Advances from General Fund	City of Escondido	Program Administration	14,032,810	0						0
7) Advance from Traffic Impact Fund	City of Escondido	Capital Improvement	975,484	0						0
8) Advance from Housing Set Aside Fund	City of Escondido	ERAF Payments	3,399,292	0						0
9) Due to General Fund	City of Escondido	Program Administration	0	13,248,297				1,680,109	4,693,048	6,373,157
10) Governing Board Costs	Members of the Governing Board	Payroll for Governing Board	0	18,260	1,522	1,522	1,522	152	1,522	6,240
11) Audit Fees	Auditors to be determined	Settlement Agreement Obligation	0	20,000			20,000			20,000
12) Property Tax Admin Fee	County of San Diego	Tax Increment Administration	0	255,581					7,667	7,667
13) Transfer to General Fund	City of Escondido	AB 1X 26 & 27 Obligation	0	4,821,933						0
14) Consulting Services	Diane Hadland	Tax Increment Review	0	17,360	5,360	3,000	3,000	3,000	3,000	17,360
15) Consulting Services	BBC Environmental	Ballpark Project	0	61,808	61,808					61,808
16) Consulting Services	Keyser Marston	Ballpark Project	0	50,000	50,000					50,000
17) Consulting Services	CB Urban Development	Ballpark Project	0	6,475	6,475					6,475
18) CalHFA Loans	CalHFA	Affordable Housing Projects	6,930,000	0						0
19) NSP Reimbursement	Developers to be determined	Affordable Housing Projects	0	786,000						0
20) Housing Employee Costs	Employees of Housing	Payroll for Employees	0	647,360	53,947	53,947	53,947	53,947	53,947	269,735
21) Housing Operations	City of Escondido	Program Administration	0	537,165	44,764	44,764	44,764	44,764	44,764	223,820
22) El Norte Apartments	Community Housing Works	Redevelopment Projects	788,970	1,961,030	163,420	163,420	163,420	163,420	163,420	817,100
23) Low-Mod Housing	Various Individuals	Loans & Subsidies	0	1,605,000	133,750	133,750	133,750	133,750	133,750	668,750
24) Mobilhome Park Operations	City of Escondido	Program Administration	0	32,675	2,723	2,723	2,723	2,723	2,723	13,615
25)										0
26)										0
27)										0
28)										0
29)										0
30)										0
Totals - This Page			91,572,397	34,749,131	523,769	9,986,468	423,126	2,081,865	5,103,841	18,119,069
Totals - Page 2										
Totals - Page 3										
Totals - Page 4										
Totals - Other Obligations			403,435,781	9,284,054	0	0	5,014,784	0	1,149,492	7,275,366
Grand total - All Pages			495,008,178	44,033,185	523,769	9,986,468	5,437,910	2,081,865	6,253,333	25,394,435

Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.)  
If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.  
\*\* Include only payments to be made after the adoption of the EOPS.

## OTHER OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (\*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month					Total
						Aug**	Sept	Oct	Nov	Dec	
1)	Pass Through Agreement	County of San Diego	Payments per 33401	82,694,000	3,380,858				270,469	1,149,492	1,419,961
2)	Pass Through Agreement	North County Cemetery District	Payments per 33401	1,191,700	47,668						0
3)	Pass Through Agreement	Rincon Del Diablo Municipal Water District	Payments per 33401	4,685	123						0
4)	Statutory Payments	City of Escondido	Payments per 33607	8,156,148	313,698			313,698			313,698
5)	Statutory Payments	Resource Conservation District of Greater San Diego County	Payments per 33607	7,722	297			297			297
6)	Statutory Payments	Vallecitos Water District	Payments per 33607	11,154	429			429			429
7)	Statutory Payments	San Diego County Water Authority	Payments per 33607	189,618	7,293			7,293			7,293
8)	Statutory Payments	Metropolitan Water District	Payments per 33607	215,358	8,283			8,283			8,283
9)	Pass Through Agreement	Palomar Pomerado Health	Payments per Settlement Agreement	9,295,486	131,044			131,044			131,044
10)	Pass Through Agreement	San Marcos Unified School District	Payments per Settlement Agreement	2,123,536	29,937			29,937			29,937
11)	Pass Through Agreement	Palomar Community College	Payments per Settlement Agreement	24,801,318	349,640			349,640			349,640
12)	Pass Through Agreement	Escondido Elementary School District	Payments per Settlement Agreement	149,023,781	2,719,949			2,719,949			2,719,949
13)	Pass Through Agreement	Escondido Union High School District	Payments per Settlement Agreement	113,612,060	2,073,880			2,073,880			2,073,880
14)	Pass Through Agreement	San Diego County Superintendent of Schools	Payments per Settlement Agreement	12,109,215	220,955			220,955			220,955
15)											0
16)											0
17)											0
18)											0
19)											0
20)											0
21)											0
22)											0
23)											0
24)											0
25)											0
26)											0
27)											0
28)											0
Totals - Other Obligations				403,435,781	9,284,054	0	0	5,014,784	0	1,149,492	7,275,366

\* This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is the basis for the Preliminary Draft

Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.)

\*\* Include only payments to be made after the adoption of the EOPS.

\*\*\* All payment amounts are estimates

ORDINANCE NO. 2011-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AGREEING, UNDER PROTEST, TO COMPLY WITH THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE REDEVELOPMENT AGENCY OF THE CITY OF ESCONDIDO WHICH WOULD OTHERWISE BE SUBJECT TO SUSPENSION AND DISSOLUTION

WHEREAS, the City Council of the City of Escondido ("City") approved and adopted the Redevelopment Plan for the Escondido Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Escondido ("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 nine and a half million



dollars (\$9,500,000), 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 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, 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 Escondido, California, DOES HEREBY 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 San Diego 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 irrevocably 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 San Diego 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 201 N. Broadway, Escondido, CA 92025. The custodian for these records is Marsha Whalen, City Clerk.

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 Escondido, 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.

ORDINANCE NO. 2011-13

AN UNCODIFIED EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AGREEING, UNDER PROTEST, TO COMPLY WITH THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE REDEVELOPMENT AGENCY OF THE CITY OF ESCONDIDO WHICH WOULD OTHERWISE BE SUBJECT TO SUSPENSION AND DISSOLUTION

WHEREAS, the City Council of the City of Escondido ("City") approved and adopted the Redevelopment Plan for the Escondido Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Escondido ("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 nine and a half million

dollars (\$9,500,000), 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 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, 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, in light of the immediate effect of the legislation referred to above and the uncertainty of the legality of the legislation there exists an emergency with respect to the life, health, public welfare and property in the City of Escondido; and

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

The City Council of the City of Escondido, California, DOES HEREBY 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 San Diego 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 irrevocably 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 San Diego 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 201 N. Broadway, Escondido, CA 92025. The custodian for these records is Marsha Whalen, City Clerk.

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 Escondido, 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. Findings. The adoption of this Urgency Ordinance is necessary for the immediate protection of the public peace, health and safety. In accordance with California Government Code Section 36937 and in order to protect the public peace, health and safety, the City Council of the City of Escondido finds and determines as follows:

(a) AB 1X 26 prohibits agencies from taking numerous actions, until the City Council adopts an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code, including but not limited to incurring any new monetary or legal obligations or expanding any existing monetary or legal obligations, entering into agreements with any person for any purpose or amending or modifying any existing agreements and taking any action with respect to a redevelopment plan;

(b) Prior to the enactment of an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code, the Agency will be unable to continue efforts to eliminate and prevent blight (including remediation of buildings and structures which are unhealthy or unsafe to occupy or properties with hazardous waste), stimulate and expand the Project Area's economic growth, create and develop local job opportunities and alleviate deficiencies in public infrastructure;

(c) Blighting conditions in the Project Area constitute substantial threats to public peace, health and safety, and are so prevalent they cannot be eliminated without Agency action, including but not limited to the use of Agency funds and authorization of redevelopment projects and programs;

(d) During the current economic crisis, the Agency must have the ability to act and continue the efforts set forth in (b) above. The Agency must have all tools

available in order to eliminate and prevent blighting conditions, including implementation of the Agency's economic development programs;

(e) The Agency is actively engaged in efforts to rehabilitate housing units, to provide assistance for property improvements and to provide safe and affordable housing. Adoption of this Urgency Ordinance will permit the Agency to continue these efforts immediately.

SECTION 12. Effective Date. The City Council hereby declares, on the basis of the findings set forth above, that an emergency exists and that this Ordinance is necessary to preserve the public peace, health and safety. Accordingly, this Ordinance is adopted as an emergency ordinance and shall take effect and be in force immediately upon its adoption.