



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: August 8, 2011

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA TO COMPLY WITH PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE RELATED TO REDEVELOPMENT AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH.

TITLE OF PROPOSED ORDINANCE

AN ORDINANCE OF THE CITY OF PASADENA TO COMPLY WITH PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE RELATED TO REDEVELOPMENT AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH.

PURPOSE OF ORDINANCE

This Ordinance is required for the Pasadena Community Development Commission to avoid dissolution and to continue redevelopment activities in accordance with the Redevelopment Plans that have been adopted and amended. Under the legislation recently signed by the Governor (AB X1 26 and AB X1 27) the City Council must enact an ordinance to opt-in to the state's "Alternative Voluntary Redevelopment Program" and must remit an amount estimated to be \$6,614,276 in fiscal year 2011-2012 and lesser amounts in subsequent years. The Ordinance must conform to the requirements of the state legislation. This Ordinance conforms to the requirements of the state legislation. The Ordinance also states that the adoption of this Ordinance and activities performed pursuant to this Ordinance are done under protest and that the City retains its right to contest the amount of the remittance. The Ordinance will be null and void in the event AB X1 26 or AB X1 27 is repealed or held unconstitutional or unenforceable by any court of competent jurisdiction.

REASON WHY LEGISLATION IS NEEDED

To allow the Pasadena Community Development Commission to avoid dissolution. There is a related agenda item which recommends approval of this Ordinance.

08/15/2011
MEETING OF 08/08/2011-
AGENDA ITEM NO. 16 17

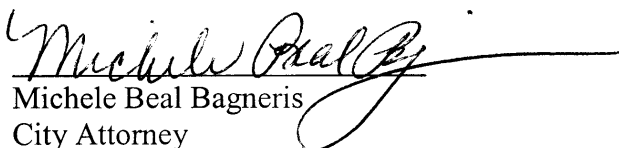
PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

Adoption of the Ordinance will allow the redevelopment activities of the Pasadena Community Development Commission to continue. All of the departments and groups that participate in, and benefit from, those activities will be affected by the continuation of those activities.

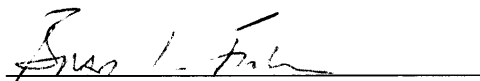
FISCAL IMPACT

The fiscal impacts associated with adoption of this Ordinance are estimated to be \$6,614,276 in the fiscal year 2011-2012 and ongoing payments in each subsequent year of an amount estimated to be \$1,500,000.


Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Brad L. Fuller
Assistant City Attorney

Concurrence:


Michael J. Beck
City Manager

Redevelopment opt-in ordinance fact sheet

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PASADENA TO COMPLY WITH
PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND
SAFETY CODE RELATED TO REDEVELOPMENT AND TAKING
CERTAIN ACTIONS IN CONNECTION THEREWITH**

The People of the City of Pasadena ordain as follows:

Section 1. This ordinance, due to its length and corresponding cost of publication, will be published by title and summary as permitted in Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

“Ordinance No. _____ assures that the Pasadena Community Development Commission will not be dissolved and permits the resumption of redevelopment activities as described in each of the redevelopment project area plans as adopted and amended. ABX1 26, signed by the Governor of California on June 29, 2011 makes certain changes to the California Redevelopment Law suspending most redevelopment agency activities and prohibiting redevelopment agencies from incurring indebtedness or entering into or modifying contracts. AB X1 27 was signed by the Governor of California on June 29, 2011 and establishes an Alternative Voluntary Redevelopment Program whereby, notwithstanding the provisions of ABX1 26, a redevelopment agency will be authorized to continue to exist and carry out the provisions of the Redevelopment

Law upon the enactment by the city council of the city which includes that redevelopment agency (the "participating city") of an ordinance to comply with ABX1 27. This Ordinance constitutes the City of Pasadena's compliance with ABX1 27.

Ordinance No. _____ shall take effect upon publication."

Section 2. The City Council of the City of Pasadena ordains as follows:

RECITALS

A. The Pasadena Community Development Commission (the "Commission") is a redevelopment agency in the City of Pasadena (the "City"), created pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the "Redevelopment Law").

B. The City Council of the City of Pasadena (formerly the Board of Directors") (hereafter referred to as the "City Council") adopted Ordinance No. 5005 approving and adopting the redevelopment plan for the Downtown Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Downtown Project Area.

C. The City Council adopted Ordinance No. 4677 approving and adopting the redevelopment plan for the Fair Oaks (formerly "Pepper") Redevelopment Project Area,

and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Fair Oaks Project Area.

D. The City Council adopted Ordinance No. 5097, approving and adopting the redevelopment plan for the Villa-Parke Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Villa-Parke Project Area.

E. The City Council adopted Ordinance No. 5103, approving and adopting the redevelopment plan for the Orange Grove Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Orange Grove Project Area.

F. The City Council adopted Ordinance No. 5571, approving and adopting the redevelopment plan for the Lake/Washington Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Lake Washington Project Area.

G. The City Council adopted Ordinance No. 6025, approving and adopting the redevelopment plan for the Old Pasadena Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Old Pasadena Project Area.

H. The City Council adopted Ordinance No. 6175, approving and adopting the redevelopment plan for the Lincoln Avenue Redevelopment Project Area, and from time to time, the City Council has amended such redevelopment plan. The Commission is undertaking a program to redevelop the Lincoln Avenue Project Area.

I. AB X1 26 was signed by the Governor of California on June, 29, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the California Health and Safety Code. Commencing upon the effectiveness of AB X1 26, AB X1 26 suspends most redevelopment agency activities and, among other things, prohibits redevelopment agencies from incurring indebtedness or entering into or modifying contracts. Effective October 1, 2011, AB X1 26 dissolves all existing redevelopment agencies and redevelopment agency components of community development agencies, designates successor agencies to the former redevelopment agencies, and imposes numerous requirements on the successor agencies and subjects successor agency actions to the review of oversight boards established pursuant to the provisions of Part 1.85.

J. AB X1 27 was signed by the Governor of California on June 29, 2011, adding Part 1.9 (commencing with Section 34192) to Division 24 of the California Health and Safety Code. Part 1.9 establishes an Alternative Voluntary Redevelopment Program whereby, notwithstanding the provisions of Part 1.8 and Part 1.85, a

redevelopment agency will be authorized to continue to exist and carry out the provisions of the Redevelopment Law upon the enactment, prior to the applicable deadline established in Part 1.9, by the city council of the city which includes that redevelopment agency (the "participating city") of an ordinance to comply with Part 1.9.

K. Part 1.9 requires a participating city to make specified annual remittances to the applicable county auditor-controller, who shall allocate the remittances for deposit into a Special District Allocation Fund, for allocation to specified special districts, and into the county Educational Revenue Augmentation Fund, for allocation to educational entities.

L. To participate in the Alternative Voluntary Redevelopment Program, in addition to adopting the ordinance described in Recital J, above, the participating city must, by November 1, 2011, notify the applicable county auditor-controller, the State Controller, and the State of California Department of Finance (the "Department of Finance") that the participating city agrees to comply with the provisions of Part 1.9. The participating city's agreement to make the remittances provided for under Part 1.9 is a precondition to continue redevelopment pursuant to Part 1.9.

M. Part 1.9 provides that for fiscal year 2011-12, a participating city shall remit to the applicable county auditor-controller an amount equal to the amount determined by the State of California Director of Finance (the "Director of Finance") for the redevelopment agency pursuant to a formula set forth in Part 1.9, which formula

utilizes information contained in the State Controller's redevelopment agency 2008-09 annual report. The amount represents the redevelopment agency's proportionate share of the sum of \$1,700,000,000. The initial amount determined by the Director of Finance is subject to recalculation and reduction in the event the participating city timely files an appeal in accordance with Health and Safety Code Section 34194(b)(2)(L).

N. For fiscal year 2012-13 and each fiscal year thereafter, a participating city's remittance amount shall equal the amount determined pursuant to calculations performed by the participating city in accordance with the requirements of Part 1.9, subject to adjustment based on audit and verification by the Director of Finance, the State Controller and the applicable county auditor-controller. On or before November 1st of each year, commencing November 1, 2012, a participating city shall notify the Department of Finance, the State Controller, and the applicable county auditor-controller of the remittance amount calculated by the participating city.

O. Pursuant to the provisions of Part 1.9, a participating city shall pay one-half of the total remittance amount for a fiscal year on or before January 15 of that year and shall pay the remaining one-half of the remittance amount on or before May 15 of that year.

P. A participating city making remittances pursuant to Part 1.9 may use any available funds not otherwise obligated for other uses.

Q. A participating city and the redevelopment agency in that participating city may enter into an agreement pursuant to Part 1.9 whereby the agency will transfer a portion of its tax increment to the participating city in an amount not to exceed the annual remittance required that year pursuant to Part 1.9.

R. Pursuant to the provisions of Part 1.9, if a participating city fails to make a remittance payment, as calculated in accordance with the applicable provisions of Part 1.9 and according to the schedule set forth in Recital I, above, the applicable county auditor-controller shall notify the Director of Finance of the failure to make the payment within 30 days. Upon receipt of the notification, the Director of Finance may determine that the redevelopment agency in the participating city shall be subject to the requirements of Part 1.8 and Part 1.85.

S. The City has estimated that its 2011-12 remittance amount under Part 1.9 is \$6,614,276. The City intends to and, if this Ordinance is adopted after August 15, 2011, will have appealed the amount of remittance to the Director of Finance on or before August 15, 2011.

T. The City desires to participate in the Alternative Voluntary Redevelopment Program so that the Commission may continue to exist and carry out the provisions of the Redevelopment Law.

U. The City has, or will have, available funds not otherwise obligated for other uses with which to make the fiscal year 2011-12 remittance in an amount not to exceed \$6,614,276, or such lesser amount if that amount is ultimately recalculated by the Director of Finance, payable one-half by January 15, 2012, with the remaining one-half payable by May 15, 2012.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PASADENA, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 3. The above recitals are true and correct and are a substantive part of this Ordinance.

Section 4. This Ordinance is adopted as required by Health and Safety Code Section 34193.

Section 5. So that the Commission may continue to exist and carry out the provisions of the Redevelopment Law notwithstanding the provisions of Part 1.8 and Part 1.85, the City Council hereby determines and declares that it shall comply with the requirements and obligations contained in Part 1.9, as Part 1.9 exists on the date of adoption of this Ordinance. In adopting this Ordinance or agreeing to comply with the provisions of Part 1.9, the City does not intend to incur an indebtedness or liability within the meaning of any constitutional or statutory debt limitation or restriction.

Section 6. Performance of actions under or pursuant to this Ordinance, including the making of payments by the City to the Los Angeles County Auditor-Controller (the "Auditor-Controller"), is made under protest. Neither the adoption of this Ordinance nor the performance of actions under or pursuant to this Ordinance is intended by the City or Commission to waive any right either may have to challenge the legality of all or any portion of AB X1 26 or AB X1 27 through administrative or judicial proceedings, or to appeal the City's fiscal year 2011-12 remittance amount pursuant to Health and Safety Code Section 34194(b)(2)(L), or to otherwise contest the remittance amount for any year. Any payments hereunder are intended to be made without prejudice to the City's right to seek to recover reimbursement of such payments, plus interest, should the requirement of making such payments be stayed, enjoined, repealed, or held unconstitutional or unenforceable by any court of competent jurisdiction. This Ordinance shall be null and void and of no further force and effect in the event that AB X1 26 or AB X1 27 is repealed, or held unconstitutional or unenforceable by any court of competent jurisdiction.

Section 7. The City Manager, or the City Manager's designee, is hereby authorized and directed to notify the Auditor-Controller, the State Controller, and the Department of Finance, on or before November 1, 2011 that the City agrees to comply with the provisions of Part 1.9, as Part 1.9 exists on the date of adoption of this Ordinance, with such notification to be accompanied by a certified copy of this Ordinance.

Section 8. This Ordinance has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the “Guidelines”), and the City’s environmental guidelines. The City has determined that this Ordinance is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378. Specifically, this Ordinance constitutes the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (Guidelines Section 15378(b)(4)). In addition, this Ordinance is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b)(5)). Therefore, because it is not a “project,” this Ordinance is not subject to CEQA’s requirements. Further, even if this Ordinance were deemed a “project” and therefore subject to CEQA, the Ordinance would be covered by the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. (Guidelines Section 15061 (b)(3)). As an organizational or administrative activity or the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, this Ordinance does not have the potential to cause a significant effect on the environment and is therefore exempt under this general rule. Further, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the

environment, and thus this Ordinance is not subject to CEQA. (Guidelines Section 15061(b)(3)).

Section 9. The City Clerk shall certify to the passage of this Ordinance and is hereby directed to publish a summary of this Ordinance, in accordance with law.

Section 10. The City Clerk is hereby directed to provide a certified copy of this Ordinance to the Commission.

Section 11. The City Clerk is hereby directed to file a Notice of Exemption with the County Clerk pursuant to Section 15062 of the Guidelines within five days of the adoption of this Ordinance.

Section 12. The officers and staff of the City are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Ordinance and any such actions previously taken by such officers are hereby ratified and confirmed.

Section 13. If any part of this Ordinance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance and this City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid or unconstitutional portion thereof had been deleted.

Section 14. This Ordinance shall take effect upon publication.

Section 15. This Ordinance shall take effect upon publication. Signed and approved this _____ day of _____, 2011.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

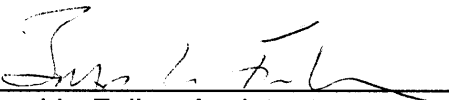
Date Published:

Mark Jomsky, CMC
City Clerk

APPROVED AS TO FORM:

Michele Beal Bagneris, City Attorney

By:



Brad L. Fuller, Assistant
City Attorney