



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of  
Supervisors

105 E. Anapamu Street, Suite  
407

Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Redevelopment Agency  
**Department No.:** 993  
**For Agenda Of:** October 4, 2011  
**Placement:** Departmental  
**Estimated Tme:** 30 Minutes  
**Continued Item:** Yes  
**If Yes, date from:** 9/6/11  
**Vote Requirement** 4/5

---

**TO:** Board of Directors, Santa Barbara County Redevelopment Agency  
Board of Supervisors, County of Santa Barbara

**FROM:** Agency  
Director: Chandra L. Wallar, County Executive Officer  
Contact Info: Glenn Russell, Ph.D., Director, Planning & Development (x 2085)  
Errin Briggs, Program Manager, Redevelopment Agency (x 2047)

**SUBJECT: Adoption of the Redevelopment Agency Continuation Ordinance**

---

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:**

N/A

**Recommended Actions:**

That the Santa Barbara County Board of Supervisors takes the following actions to participate in the Alternative Voluntary Redevelopment Program:

- 1) Introduce (first reading) an Ordinance determining that the County will comply with the Alternative Voluntary 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 County of Santa Barbara ("Continuation Ordinance") and waive full reading of the Ordinance. [Attachment 3]:
- 2) Set hearing for the adoption (second reading) of the Continuation Ordinance for October 11, 2011.
- 3) Approve the attached budget revision #0001805 [Attachment 4] for a \$1,953,000 remittance to the State and a \$1,953,000 transfer from the Redevelopment Agency of the County of Santa Barbara ("Redevelopment Agency") to the County. (Approval of the budget revision only)

provides for the appropriation to make payments if the Ordinance becomes effective and the payments are required.) (4/5 Vote Required)

- 4) Approve and authorize the Chair to enter into a conditional reimbursement agreement between the County and the Redevelopment Agency to provide for Redevelopment Agency reimbursement to the County of remittances paid by the County to the State as required under ABX1 27. [Attachment 5]
- 5) Determine, that the above actions do not constitute a “project” under the California Environmental Quality Act (“CEQA”) but instead consist of the creation or continuation of a governmental funding mechanism for potential future projects and programs and/or governmental organizational activities pursuant to CEQA Guideline Sections 15378(b)(4) and 15378(b)(5) and direct staff to file a Notice of Exemption. [Attachment 6]

That the Board of Directors of the Redevelopment Agency takes the following action associated with participating in the Alternative Voluntary Redevelopment Program:

- 6) Approve and authorize the Chair to enter into a conditional reimbursement agreement between the County and the Redevelopment Agency to provide for Redevelopment Agency reimbursement to the County of remittances paid by the County to the State as required under ABX1 27. [Attachment 5]
- 7) Approve the attached budget revision #0001805 [Attachment 4] for a \$1,953,000 transfer from the Redevelopment Agency to the County. (Approval of the budget revision only provides for the appropriation to makes payments if the Ordinance becomes effective and the payments are required.)
- 8) Determine, that the above actions do not constitute a “project” under the California Environmental Quality Act (“CEQA”) but instead consist of the creation or continuation of a governmental funding mechanism for potential future projects and programs and/or governmental organizational activities pursuant to CEQA Guideline Sections 15378(b)(4) and 15378(b)(5) and direct staff to file a Notice of Exemption. [Attachment 7]

### **Background**

Staff brought several recommended actions to your Board on September 6, 2011 to meet deadlines required by ABX1 26 and ABX1 27 (together the “Redevelopment Restructuring Acts”). Following staff’s recommendation, your Board adopted a non-binding resolution of intent to continue the Redevelopment Agency and participate in the Alternative Voluntary Redevelopment Program provided for by ABX1 27. In order to preserve the option of keeping the housing assets and functions in the event the Redevelopment Agency was dissolved, your Board also adopted a resolution retaining the housing assets, functions and powers previously performed by the Redevelopment Agency. You also adopted a resolution directing staff to forward the preliminary draft of the initial Recognized Obligation Payment Schedule to the Successor Agency as required by ABX1 26. You then directed staff to return on October 4, 2011 with a Continuation Ordinance and a reimbursement agreement for the remittances to be paid to the State as required under ABX1 27.

### Judicial Update

The judicial challenge to the Redevelopment Restructuring Acts has not been resolved. The primary actions which have occurred to date are:

- California Redevelopment Association and others challenged the constitutionality of ABX1 26 and ABX1 27 on July 18, 2011, directly in the California Supreme Court, and requested that the California Supreme Court stay implementation of those amendments in California Redevelopment Association et al v. Matosantos (S194861) (“Matosantos Case”);
- Through orders on August 11<sup>th</sup> and August 17<sup>th</sup>, the California Supreme Court stayed implementation of most of ABX1 26 and almost all of ABX1 27; and
- On August 22<sup>nd</sup>, California Redevelopment Association requested further modification of the Supreme Court’s stay, including permission for communities to “opt in” to ABX1 27, within the legislation’s current deadlines, even if they had not enacted “opt in” ordinances before the California Supreme Court issued its stay on August 11<sup>th</sup>. On September 14, 2011 the Court denied the request for further modification.

We recommend the Board of Supervisors adopt the Continuation Ordinance on October 11<sup>th</sup> by undertaking its first reading on October 4<sup>th</sup>. We recommend taking this action now because:

- It is not clear how the California Supreme Court will resolve the judicial challenge that was brought against ABX1 26 and ABX1 27; and
- If the California Supreme Court upholds ABX1 26 and/or ABX1 27, it is not clear how the California Supreme Court and/or the California Legislature will handle certain deadlines in the legislation that will already have passed if the California Supreme Court does not issue its decision until January 2012, which is the decision date that the California Supreme Court stated in its orders of August 11<sup>th</sup> and August 17<sup>th</sup>; and
- October 18<sup>th</sup> is the last regularly scheduled Board hearing prior to the legislation’s stated but stayed November 1, 2011 deadline for adoption of the Continuation Ordinance.
- Today’s recommended actions best preserve the County’s options, but may require repeat actions later depending on judicial and legislative developments.

An exhibit identifying key deadlines for ABX1 26 & 27 decisions is included with this Board Letter as Attachment 1.

### Potential Clean-up Legislation

ABX1 26 and ABX1 27 were passed on an expedited basis as part of the State budget balancing process and include several unclear provisions. As of the writing of this Board Letter, various corrective measures have been introduced in the California State Legislature to clarify provisions in ABX1 26 & 27 and remain pending. At this time, it is difficult to predict the outcome of any corrective legislation.

### **Continuation Ordinance to participate in the Alternative Voluntary Redevelopment Program**

If the California Supreme Court upholds ABX1 27, then, Health and Safety Code Section 34193 et seq. allows the redevelopment agency to continue operating under the “Alternative Voluntary Redevelopment Program” if the Board of Supervisors enacts a Continuation Ordinance on or before October 1, 2011, committing the County to make specified one-time and ongoing annual payments to the State (the “Continuation Payments”); this deadline was extended to November 1, 2011 through your adoption on September 6<sup>th</sup> of a non-binding resolution of intent to adopt a Continuation Ordinance.

Staff recommends that the Board of Supervisors observe the currently stayed deadlines included in the legislation and adopt the Continuation Ordinance at this time. Although the sections of ABX1 26 that authorize the County to adopt the Continuation Ordinance are subject the Court’s stay, the failure to adopt the ordinance now could limit the County’s future options if the Court upholds ABX1 26 and ABX1 27. This is because it is not clear how the California Supreme Court and/or the California Legislature will handle this deadline in the likely event that the deadline passes before there is final resolution of the case. The Continuation Ordinance that is before your Board contains language that makes it effective only upon ABX1 26 and ABX1 27 being upheld by the Court. After it is adopted and once it becomes effective, the Continuation Ordinance obligates the County to pay the required Continuation Payments, in this case a one-time payment of approximately \$1.95 million in fiscal year 2011/12 and an ongoing annual payment of approximately \$459,000 each year thereafter.

A second reading of the Continuation Ordinance will be required. As drafted, the Ordinance would be effective upon the later of: 1) 30 days from its second reading, 2) the date the stay of Health and Safety Code Section 34193 in the Matosantos Case is lifted and 3) the date of a decision of the California Supreme Court in the Matosantos Case upholding both ABX1 26 and ABX1 27. Staff recommends the Board set hearing for the second reading (Adoption) of the Continuation Ordinance for October 11, 2011.

### **Reimbursement Agreement & Budget Revision**

If the County participates in the Alternative Voluntary Redevelopment Program through adoption of the Continuation Ordinance, one-time and ongoing annual Continuation Payments required by ABX1 27 must be made to the State by the County. Health and Safety Code Section 34194.2 allows the County and Redevelopment Agency to enter into a reimbursement agreement to provide for repayment of those funds to the County by the RDA. A draft conditional reimbursement agreement and associated budget revision to transfer the necessary funds from the Redevelopment Agency to the County are attached to this Board Letter. The draft reimbursement agreement is conditioned upon: 1) final adoption of the Continuation Ordinance, 2) the lifting of the stay of Health and Safety Code Section 34193 in the Matosantos Case, and 3) a decision in the Matosantos Case upholding both the Dissolution Bill and the Continuation Bill. The budget revision request is included with this Board Letter as Attachment 4 and the reimbursement agreement is included as Attachment 5. Both the Board of Supervisors and the Redevelopment Agency Board of Directors must approve and authorize their Chairs to execute the reimbursement agreement and the budget revision. A 4/5s vote is required for County approval of the budget revision. Staff recommends approval of the conditional reimbursement agreement and the associated budget revision in conjunction with the Continuation Ordinance.

Health and Safety Code Section 34194.2 requires that the reimbursed proceeds to the County be used “for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency goals.” The conditional reimbursement agreement includes that requirement.

### **Environmental Review**

The above actions do not constitute a “project” under the California Environmental Quality Act (“CEQA”) but instead consist of governmental organizational activities and the creation and continuation of a governmental funding mechanism for potential future projects and programs pursuant to CEQA Guideline Sections 15378(b)(4) and 15378(b)(5). CEQA Notices of Exemption are included as Attachments 6 and 7 of this Board Letter.

### **Fiscal Analysis**

The Auditor-Controller’s office has provided the Board with a detailed financial analysis describing the fiscal impacts of ABX1 26 & ABX1 27 in Attachment 2 of this Board Letter.

### **Special Instructions**

Please forward a copy of the minute order to Heather Allen, Redevelopment Agency.

### **Attachments**

- 1 – Key Dates for Decisions regarding ABX1 26 & ABX1 27
- 2 – Redevelopment Restructuring Act Financial Analysis for the Santa Barbara County Redevelopment Agency
- 3 – Continuation Ordinance to enter into the Alternative Voluntary Redevelopment Program
- 4 – Budget Revision Request
- 5 – Reimbursement Agreement
- 6 – County Notice of Exemption
- 7 – Agency Notice of Exemption

### **Authored by:**

Glenn Russell, Ph.D., Director, Planning & Development  
Errin Briggs, Program Manager, Redevelopment Agency

### **Cc:**

Bob Geis & Greg Levin, Auditor Controller  
Mark Paul, Public Works  
Mike Ghizzoni & Mary McMaster, County Counsel