

RESOLUTION NO. 2011-43

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALBANY
APPROVING AND AUTHORIZING THE EXECUTION OF THE AGENCY
TRANSFER PAYMENT AGREEMENT WITH THE ALBANY COMMUNITY
REINVESTMENT AGENCY PURSUANT
TO PART 1.9 OF THE REDEVELOPMENT LAW

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Albany (the "City") adopted, in accordance with the Redevelopment Law, Ordinance No. 98-04 on June 15, 1998, adopting the Albany Reinvestment Redevelopment Plan (the "Redevelopment Plan"); and

WHEREAS, the Albany Community Reinvestment Agency (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law; and

WHEREAS, ABX1 27 (the "Voluntary Program Act") through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), establishes a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City to comply with Part 1.9, including payment of an annual remittance to the County-Auditor Controller (the "Continuation Ordinance"); and

WHEREAS, on August 11, 2011, the California Supreme Court (the "Court") agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as modified on August 17, 2011 (the "Stay"), including a stay of the provisions of the Voluntary Program Act; and

WHEREAS, the City has enacted the Continuation Ordinance prior to consideration of this Resolution conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional; and

WHEREAS, Section 34194.2 of the California Redevelopment Law authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law to the County Auditor-Controller; and

WHEREAS, for reasons further set forth in the staff report accompanying this Resolution (the "Staff Report"), the City and the Agency desire to enter into an agreement, whereby the Agency will transfer to the City sufficient funds to make the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law, and the City will make the annual remittances to the County Auditor-Controller in satisfaction of the requirements under Chapter 3 of Part 1.9 of the Redevelopment Law (the "Agency Transfer Payment Agreement"); and

WHEREAS, as fully set forth in the Agency Transfer Payment Agreement, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4) the approval of the Agency Transfer Payment Agreement 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 appropriate environmental review shall be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program; and

WHEREAS, the City Council has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that 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 appropriate environmental review shall be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program. The City Council therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Alameda in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the City Council hereby approves the Agency Transfer Payment Agreement and authorizes the City Manager or the City Manager's designee to execute on behalf of the Agency the Agency Transfer Payment Agreement, substantially in the form on file with the City Clerk and Agency Secretary and with such revisions thereto as may be approved by the City Attorney.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager or the City Manager's designee to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Agency Transfer Payment Agreement on behalf of the City.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

The above and foregoing resolution was duly and regularly passed and adopted at a meeting by the City Council on the 19th day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a true and correct copy of the original Resolution on file in the office of the City Clerk of the City of Albany.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the City of Albany, this _____ day of _____, 2011.

City Clerk (SEAL)

Approved:

By: _____

Name: _____
Mayor