



## Community Redevelopment Agency/City Council Staff Report

DATE: September 21, 2011 LEGISLATIVE CALENDAR

SUBJECT: Proposed Ordinance "Opting In" to the State of California's Voluntary Alternative Contribution Program for Redevelopment Agencies under AB 1X 27; Approval and Transmittal of Preliminary Draft Initial Recognized Obligations Payment Schedule (IROPS); Approval of a Remittance Agreement Between the Agency and the City of Palm Springs for the AB 1X 27 Payment; Approval of a Resolution Reducing the Allocation to the Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year; and, Approval of City- and Agency Budget Amendments for Fiscal Year 2011-2012 to Effectuate the Voluntary Contribution

FROM: David H. Ready, Executive Director

BY: Community & Economic Development Department

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### SUMMARY:

Under several budget-related trailer bills enacted by the State of California this year, including AB X1 26, which eliminates redevelopment agencies, and AB 1X 27, which establishes an alternative redevelopment program whereby a redevelopment agency can continue to exist upon enactment of an ordinance by the City to comply with provisions of the act, including payment of an annual remittance to the County Auditor-Controller, a number of additional actions must be adopted by September 30.

The Agency approved an Enforceable Obligations Payment Schedule on August 25, 2011; one additional requirement is the adoption of a "draft" preliminary Initial Recognized Obligation Payment Schedule (IROPS), which is due by September 30. The IROPS must list the minimum amounts that must be paid by the successor agency over a six (6) month period to fulfill its *enforceable obligations* during that period.

While recent Supreme Court action limits the effectiveness of certain actions to be taken by the City or Agency until the Court determines the constitutionality of the two laws, Staff is recommending that the City Council and Community Redevelopment Agency (CRA), respectively, take the following actions to "opt in" to the State's Voluntary Alternative Contribution Program under AB 1X 27 and

**Item No. 3.B.**

approve a Remittance Agreement setting forth the terms under which the City and Agency will cooperate on the voluntary contribution program set forth in AB 1X 27:

City Council Action:

1. Waive Reading of Text and Adopt Ordinance No. \_\_\_\_\_ "AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, 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 COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS" as an Urgency Ordinance;
2. Waive Reading of Text and Introduce for First Reading Ordinance No. \_\_\_\_\_ "AN ORDINANCE OF THE CITY OF PALM SPRINGS, 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 COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS";
3. Approve a Remittance Agreement between the Community Redevelopment Agency and the City of Palm Springs to cover required AB 1X 27 Payments; and
4. Approve a supplemental appropriation of \$3,436,380 from offsetting Agency revenues under the Remittance Agreement, for the payment of the Voluntary Contribution under AB 1X 27 for Fiscal Year 2011-12.

Community Redevelopment Agency Action:

5. Adopt Resolution No. \_\_\_\_\_ A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS APPROVING A PRELIMINARY DRAFT OF AN INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE (IROPS) PURSUANT TO PART 1.8 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS THEREWITH; and
6. Adopt Resolution No. \_\_\_\_\_ A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS REDUCING ITS ALLOCATION TO THE LOW AND MODERATE INCOME

**REDUCING ITS ALLOCATION TO THE LOW AND MODERATE INCOME HOUSING FUND FOR THE 2011-12 FISCAL YEAR AND MAKING CERTAIN FINDINGS AND DETERMINATIONS; and**

7. Approve a Remittance Agreement between the Community Redevelopment Agency and the City of Palm Springs to cover required AB 1X 27 Payments; and
8. Adopt Resolution No. \_\_\_\_\_ Approving a supplemental appropriation of \$3,436,380 from the Debt Service Funds, required by the Remittance Agreement for Fiscal Year 2011-12 to be transferred to the City of Palm Springs; and

**BACKGROUND:**

On June 29, 2011, the Governor signed several budget-related trailer bills, including AB 1X 26, which eliminates redevelopment agencies, and AB 1X 27, which establishes an alternative redevelopment program whereby a redevelopment agency can continue to exist upon enactment of an ordinance by the City to comply with provisions of the act, including payment of an annual remittance to the County Auditor-Controller. The legislation makes such annual remittance payments an obligation of the City rather than the redevelopment agency, but does allow the redevelopment agency to backfill the City obligation with its Tax Increment.

On August 25, 2011, the Agency approved an Enforceable Obligations Payment Schedule (EOPS), one of the required actions under AB 1X 26 (Section 34169(g)(1)) that an Agency must take. The City Council had intended to introduce the "Opt-in" Ordinance on September 7, 2011 to keep the Palm Springs Community Redevelopment Agency (CRA) operational. However, the California Redevelopment Association (CRA) and California League of Cities (League) challenged the constitutionality of both bills in the California Supreme Court (the "Court"). They also submitted a request for a stay to enable agencies to continue operating while the case is being decided, suspending the effectiveness of the legislation until the Court rules on the case.

On August 11, 2011, the Court issued a partial stay on the effectiveness of AB 1X 26 and AB 1X 27 until it can rule on the constitutionality of the two bills. As a result, Sections 34161 through 34167 of AB 1X 26 are currently in effect and call for the suspension of non-administrative redevelopment agency activities and commencement of some wind down activities including agency board adoption and filing of the EOPS by August 28. After this date, an agency may only pay for obligations listed on the EOPS unless it is necessary to meet bonded indebtedness.

On August 17, the Supreme Court revised its August 11 partial Stay of AB 1X 26 and AB 1X 27 by clarifying that all of Part 1.8 (H & S.C. Sections 34161-34169.5)

remains in effect. That means all agencies were required to adopt an enforceable obligation schedule by August 28, 2011.

While the recent Court action limits the effectiveness of certain actions to be taken by the City or Agency until the Court determines the constitutionality of the two laws, Staff is recommending that the City Council and Agency approve the ordinance to "opt in" to the State's Voluntary Alternative Contribution Program under AB 1X 27 and the Remittance Agreement that commits the Agency to cover the City's obligation under AB 1X 27. A corresponding action by the Agency would be to suspend the Low- and Moderate Income Housing payment allowed under the law in order to use those funds to make the remittance payment; otherwise the Agency would not have adequate resources to cover those costs.

In addition, the next required action not stayed by the Court's order is for the Agency to approve a "draft" Initial Recognized Obligation Payment Schedule (IROPS), which is due by September 30. The IROPS must list the minimum amounts that must be paid by the successor agency over a six (6) month period to fulfill its *enforceable obligations* during that period, with the first schedule covering the period from January 1, 2012 to June 30, 2012. The successor agency is that which would handle the obligations of the Agency after dissolution, if the City did not "opt in" under AB 1X 27. The schedule must also identify a source of payment for each recognized obligation from one or more of the following:

1. Low and Moderate Income Housing Fund;
2. Bond Proceeds;
3. Reserve Balances;
4. Administrative Cost Allowance;
5. Redevelopment Property Tax Trust Fund (formerly tax increment), but only to the extent no other source is available; or
6. Other revenue sources.

The "Opt-in" Ordinance states that annual Remittance Payments will be made exclusively from Agency Transfer Payments to the City, and that the Council does not intend, by the enactment of the "Opt-in" Ordinance, to pledge any of its General Fund revenues or other assets to make the annual remittance payments.

In addition, the City Council will approve a Resolution electing to serve as the Successor Agency under AB 1X 26 and AB 1X 27. The Successor Agency is that which would handle the affairs of the Agency upon dissolution. It is a prudent election given the uncertainty over the Supreme Court's potential decision.

A Remittance Agreement between the CRA and the City, for the CRA to transfer tax increment funds to cover the City required AB 1X 27 remittance payments has been prepared and is provided as an Attachment to this report. Payment amount for FY 2011-12 is \$3,436,380. One half of the remittance payment for FY 2011-12 is due on January 15, 2012, with the second half due on May 15, 2012. It is recommended that the City Council and Community Redevelopment Agency (CRA), respectively, adopt Resolutions approving the Remittance Agreement. The reason for approving the "Opt In" ordinance now is that the Court has only committed to making its ruling by January 15, 2012, and there is no certainty that it will amend any of the payment and approval schedule under the existing law; it could happen that the Court could make its ruling and the City and Agency would not have time to adopt the necessary measures to comply with the law, if it is upheld.

#### **ANALYSIS:**

AB 1X 27 establishes a voluntary alternative redevelopment program whereby the City may choose to continue redevelopment upon the enactment of an "Opt-in" Ordinance by the City to comply with the provisions of making certain remittances payments to the County Auditor-Controller described in Health and Safety Code Section 34194.

Pursuant to Section 34194.2 of AB 1X 27, the City may enter into an agreement with the CRA, whereby the CRA will transfer a portion of its tax increment to the City, in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9, for the purpose of financing activities within the redevelopment area that are related to accomplishing the CRA's redevelopment project goals. The Remittance Agreement has been prepared by and between the City and CRA for the CRA to backfill the City's payment obligation to continue its redevelopment activities.

Under the terms of the Remittance Agreement, the CRA shall transfer to the City, in a timely manner, Net Available Tax Increment or other funds in an amount sufficient for the City to make the remittance payments required by Part 1.9 of AB 1X 27. The amounts to be transferred to the City shall cover the City's remittance payment amount as determined by the State Director of Finance, but no more. The Agreement has been crafted so that it is understood that any remittance payments shall be funded solely from CRA funds and/or assets and shall not be deemed to be a pledge of the City's General Fund revenues or other assets to make the remittance payments contemplated by AB 1X 27.

Once the City has received sufficient funds from the CRA, the City is to submit to the County Auditor-Controller the remittance payments required by Part 1.9. The City's obligation to make such remittances shall be a special limited obligation of the City payable solely from Net Available Tax Increment or any other funds made available to the City by the CRA. If, at any time, the CRA does not have sufficient funds to make the required remittance payments, the City may stop

sufficient funds to make the required remittance payments, the City may stop paying the remittance payments to the County. This would have the effect of ceasing all redevelopment activities in the community and invoking the agency dissolution actions identified in AB 1X 26. An action challenging the validity of AB 1X 26 and AB 1X 27 has been filed with the Supreme Court. As such, the remittances authorized in the Agreement will be made under protest; the City will reserve its right to recover any remittance payments made if the bills are deemed unconstitutional and unlawful by the courts.

The FY 2011-2012 remittance payment of \$3,436,380 to keep the CRA operating can be made from current cash balances available in the Low and Moderate Income Housing Fund, based on suspending the payment in Fiscal Year 2011-2012 to that fund, so that those funds remain in the Debt Service funds of the Agency. Findings regarding the necessity of using those funds are included in the attached resolution.

As a condition of transferring borrowing from the Housing Fund, the Agency must make a finding that there are insufficient other moneys to meet the SERAF requirements. If the resolution is approved, funds borrowed pursuant are required to be repaid in full on or before June 30, 2016 with respect to the borrowing related to the fiscal year 2010-11 SERAF payment.

The Agency finds that the loan is necessary to meet the Agency's obligation to pay the 2010-11 SERAF. Agency funds in the Debt Service have been earmarked for existing bonded debt obligations, payment under development agreements, contribution to the Convention Center debt service, repayment of City operating loans, and the balance of amounts held under tax sharing agreements with the Flood Control District. Funds in the Debt Service have also been reserved for the first installment for the borrowing of the 2009-10 SERAF payment from the Housing Fund.

There are no available funds in the Capital Project Funds that are not currently encumbered for previously budgeted project costs, including a reserve of approximately \$956,000 for existing Plaza Theater obligations. Bond proceeds in the Agency's capital project fund are not available to make SERAF payments, and are reserved for the construction of the animal shelter.

As a result, the existing fund balances in the Agency's Capital Improvement Fund and Debt Service Fund are not available to make the SERAF payment.

The "Opt-in" Ordinance stipulates that the City shall enter into a Remittance Agreement with the CRA; such an Agreement is necessary to be able to include this obligation on the Agency's Statement of Indebtedness to be prepared and filed by October 1, 2011. The Remittance Agreement between the City and CRA will formalize the arrangement for the CRA to transfer Net Tax Incremental Revenues to sufficiently cover the City's payment obligations.

**FISCAL IMPACT:**

The remittance payment for FY 2011-12 is \$3,436,380. The estimated remittance payment for FY 2012-13 is \$816,646.

The CRA maintains three types of individual governmental funds. They are the Low and Moderate Income Housing Fund, the Debt Service Funds for the Constituent Project Areas, and the Capital Projects Funds for Merged Project Area No. 1 and Merged Project Area No. 2. Funds for the remittance payment were not programmed in the Fiscal Year 2011-12 budget, except to the extent they available in the Low/Mod Housing Fund; therefore, budget amendments for the City and Agency are also included. Currently, the first installment of the remittance payment for Fiscal Year 2011-12 is due January 15, 2012, with the second payment due May 15, 2012. It is uncertain the impact of the Court's decision on the schedule of payments, if any. Authorization of the remittance payment will require a supplemental appropriation of \$3,436,380 from the CRA's Debt Service Fund and transferred to the City of Palm Springs.

  
John Raymond, Director of  
Community & Economic Development

  
Geoffrey Kiehl, Director of Finance/  
City Treasurer

  
David H. Ready, Executive Director

  
Tom Wilson, Assistant City Manager

**Attachments:**

1. Opt In Urgency Ordinance
2. Opt In Ordinance for First Reading
3. Remittance Agreement
4. Draft Preliminary Initial Recognized Obligations Payment Schedule (IROPS) for the 2011-2012 Fiscal Year
5. Resolution Approving Draft Preliminary Initial Recognized Obligations Payment Schedule (IROPS)
6. CRA Resolution Suspending the Low Income Housing Payment for 2011-2012 and Approving Remittance Agreement
7. Budget Resolution Amending the 2011-2012 Community Redevelopment Agency Budget
8. Budget Resolution Amending the 2011-2012 City of Palm Springs Budget

URGENCY ORDINANCE NO. \_\_\_\_\_

**AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, 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 COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS. (4/5ths Vote Required.)**

***City Attorney Summary***

*On July 29, 2011, the Governor signed a law dissolving all redevelopment agencies. At the same time, the Governor signed a law that provides a city the option to continue the existence of its redevelopment agency subject to a series of new conditions and commitments – primarily commitments to make payments to other agencies to be used for special district and educational purposes. Litigation has been filed challenging this legislation and the California Supreme Court has issued a stay on portions of the legislation pending completion of the litigation process. Notwithstanding the uncertainty in the legal status of the legislation, adoption of this Urgency Ordinance would preserve the ability to continue the existence of the Palm Springs Community Redevelopment Agency, subject to any judicially validated requirements provided in the new State law. As an urgency ordinance, a 4/5ths vote is required to approve the ordinance.*

**WHEREAS**, the City Council of the City of Palm Springs (“City”) approved and adopted the Redevelopment Plan for the Merged Redevelopment Project No. 1 and Merged Redevelopment Project No. 2 (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”); and

**WHEREAS**, the Community Redevelopment Agency of the City of Palm Springs (“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 Three Million Four Hundred Thirty Six Thousand, Three Hundred Eighty Dollars (\$3,436,380), as well as the subsequent annual community remittances as set forth in the CRL; and

**WHEREAS**, City understands and believes that an action challenging the constitutionality of AB 1X 26 and AB 1X 27 was filed with the California Supreme Court (the "Court") on behalf of cities, counties and redevelopment agencies, and that on August 11, 2011, the Court issued a partial stay on the effectiveness of AB 1X 26 and AB 1X 27 until it can rule on the constitutionality of the two bills; 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 the Court 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 PALM SPRINGS, 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 Riverside 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 a Remittance 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 Riverside 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 3200 Tahquitz Canyon Way, Palm Springs, California, 92262. The custodian for these records is James Thompson, 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 Palm Springs, 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 Palm Springs 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 affordable housing, 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 including the reimbursement of landfill remediation, the provision of parking in the downtown and uptown areas of the City, the redevelopment of historic properties in the City, and the provision of needed infrastructure to incentivize private development;

(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.

**PASSED AND ADOPTED** at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Stephen P. Pougnet  
Mayor

ATTEST:

\_\_\_\_\_  
James Thompson  
City Clerk

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, 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 COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS**

***City Attorney Summary***

*On July 29, 2011, the Governor signed a law dissolving all redevelopment agencies. At the same time, the Governor signed a law that provides a city the option to continue the existence of its redevelopment agency subject to a series of new conditions and commitments – primarily commitments to make payments to other agencies to be used for special district and educational purposes. Litigation has been filed challenging this legislation and the California Supreme Court has issued a stay on portions of the legislation pending completion of the litigation process. Notwithstanding the uncertainty in the legal status of the legislation, adoption of this Urgency Ordinance would preserve the ability to continue the existence of the Palm Springs Community Redevelopment Agency, subject to any judicially validated requirements provided in the new State law.*

**WHEREAS**, the City Council of the City of Palm Springs (“City”) approved and adopted the Redevelopment Plan for the Merged Redevelopment Project No. 1 and Merged Redevelopment Project No. 2 (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”); and

**WHEREAS**, the Community Redevelopment Agency of the City of Palm Springs (“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 Three Million Four Hundred Thirty Six Thousand, Three Hundred Eighty Dollars (\$3,436,380), as well as the subsequent annual community remittances as set forth in the CRL; and

**WHEREAS**, City understands and believes that an action challenging the constitutionality of AB 1X 26 and AB 1X 27 was filed with the California Supreme Court (the "Court") on behalf of cities, counties and redevelopment agencies, and that on August 11, 2011, the Court issued a partial stay on the effectiveness of AB 1X 26 and AB 1X 27 until it can rule on the constitutionality of the two bills; 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 the Court 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 PALM SPRINGS, 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 Riverside 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 a Remittance 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 Riverside 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 3200 Tahquitz Canyon Way, Palm Springs, California, 92262. The custodian for these records is James Thompson, 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 Palm Springs, 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.

**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.



**PASSED AND ADOPTED** at a regular meeting of the City Council on the \_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Stephen P. Pougnet  
Mayor

ATTEST:

\_\_\_\_\_  
James Thompson  
City Clerk

## REMITTANCE AGREEMENT

(CALIFORNIA HEALTH AND SAFETY CODE SECTION 34194.2)

This REMITTANCE AGREEMENT ("Agreement") is entered into this 6th day of September, 2011, by and between the CITY OF PALM SPRINGS, a California municipal corporation (the "City"), and the COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS, a public body, corporate and politic (the "CRA"). The City and the CRA (collectively, the "Parties" and individually, a "Party") enter into this Agreement with reference to the following:

### RECITALS

A. By previous action duly and regularly taken, the City Council of the City of Palm Springs ("City Council" or "City" as appropriate) approved and adopted the Redevelopment Plan for the Palm Springs Community Redevelopment Agency, as amended from time to time ("Redevelopment Plan").

B. The Redevelopment Plan covers certain properties within the City known as the Palm Springs Community Redevelopment Project Area ("Project Area").

C. The Community Development Agency of the City of Palm Springs ("CRA") 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").

D. Since adoption of the Redevelopment Plan, the CRA 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 agreements with private parties to create jobs and expand the local economy.

E. Over the next few years, the CRA hopes to implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, stimulate and expand the economic growth of the Project Area, create and develop local job opportunities, alleviate deficiencies in public infrastructure, and expand the opportunities for affordable housing, to name a few.

F. As part of the 2011-12 State budget bill, the California Legislature enacted and the Governor signed, from the 2011-12 First Extraordinary Session, Assembly Bills 26 and 27 ("AB1X 26" and "AB1X 27"), requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to making certain payments.

G. Specifically, AB1X 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.

H. AB 1X 27 provides that a community may participate in a "Voluntary Alternative 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 ("Part 1.9").

I. The Voluntary Alternative Redevelopment Program requires that the City agree by ordinance to remit specified annual amounts to the County Auditor-Controller of the County of Orange ("County Auditor").

J. The City intended to adopt the ordinance specified by AB 1X 27("Ordinance") on or before October 1, 2011, agreeing to participate in the Voluntary Alternative Redevelopment Program, but is temporarily prevented from doing so by a partial order of stay on the effectiveness of AB 1X 26 and AB 1X 27 issued on August 11, 2011 by the California Supreme Court until it can issue a ruling on the constitutionality of the two bills.

K. Pursuant to Health and Safety Code Section 34194.1, in making remittances to the County Auditor pursuant to Health and Safety Code Sections 34194 or 34194.5, the City may use any available funds not otherwise obligated for other uses.

L. Pursuant to Health and Safety Code Section 34194.2 ("Section 34194.2"), the City may enter into an agreement with the CRA, whereby the CRA will transfer a portion of its tax increment to the City, in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9.

M. The purpose of this Agreement is to provide for the transfer of funds by the CRA to the City pursuant to the authorization in Section 34194.2, with said transfer of funds to be in an amount not to exceed the annual amount that is sufficient for the City, directly or indirectly, to make the remittances required by Chapter 3 of Part 1.9 for the applicable fiscal year.

N. The obligations of the CRA under this Agreement shall constitute an indebtedness of the CRA for the purpose of carrying out the Redevelopment Plan for the Project Area.

O. The City understands and believes that an action or actions challenging the validity of ABX1 26 and AB 1X 27 has or have been, or may be filed on behalf of cities, counties and redevelopment agencies. While the City intends to make the remittances as provided for in AB 1X 27 and pursuant to this Agreement, the remittances 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 by a court of competent jurisdiction that AB1X 26 or AB 1X 27, or both, are unconstitutional or otherwise unlawful. The City reserves the right, regardless of any remittance made pursuant to this Agreement, to challenge the legality of AB 1X 26 or AB 1X 27, or both.

P. To the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Voluntary Alternative 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.

Moreover, to the extent that a court of competent jurisdiction determines that either AB 1X 26 or AB 1X 27, or both, are unconstitutional and therefore invalid, and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed, this Agreement shall be deemed null and void and of no further force and effect.

**NOW, THEREFORE**, based on the foregoing Recitals, which are incorporated herein by this reference and are an integral part of this Agreement, the Parties mutually agree as follows:

1. **Definitions.** For purposes of this Agreement, "Available CRA Funds" shall mean, collectively, (a) any and all funds received and held by CRA not otherwise restricted or dedicated for a particular use, project, or program ("Unrestricted CRA Funds") and (b) Net Available Tax Increment Funds. For purposes of this Agreement, "Net Available Tax Increment Funds" means any and all tax increment funds allocated to the CRA pursuant to Article XVI, Section 16, of the California Constitution and Health and Safety Code Section 33670 ("tax increment"), less the following: (i) tax increment funds committed to existing debt service payments and any interest payment thereon, (ii) tax increment funds for existing third-party contractual payment obligations, (iii) tax increment funds for statutory or contractual "pass-through" payment obligations to any taxing entities that have not been remitted to a taxing entity before the CRA's receipt of the amount of tax increment funds that otherwise must be remitted to the taxing entity, and (iv) tax increment funds on deposit and tax increment funds required to be deposited in the CRA's Low and Moderate Income Housing Fund.

2. **CRA Obligation to Transfer Funds to City; Determination of Remittance Payment Amounts.** The CRA shall transfer to the City in a timely manner, from Available CRA Funds, amounts sufficient for the City to make the remittance payments required by Part 1.9. The amounts of the remittance payments for each fiscal year shall be determined pursuant to Part 1.9, including Health and Safety Code Section 34194 ("Section 34194"). In the event that the City disputes the State Director of Finance's determination of the City's remittance payment amount for Fiscal Year 2011-12, as determined pursuant to Section 34194, the City reserves the right to appeal to the State Director of Finance pursuant to Section 34194. The City's remittance payment amount for Fiscal Year 2011-12 shall be the final remittance payment amount determined after any applicable appeal to the State Director of Finance, and each remittance payment amount for fiscal years after Fiscal Year 2011-12 shall be based upon the final remittance payment amount for Fiscal Year 2011-12, as determined after any applicable appeal to the State Director of Finance, as adjusted pursuant to Section 34194.

3. **City Obligation to Transfer Remittance Payment Amounts to County Auditor; Limited and Special Obligation of City; No Commitment of Funds from City General Fund.**

Subject to the receipt of sufficient Available CRA Funds from the CRA, the City shall, pursuant to Part 1.9, timely remit to the County Auditor the remittance payment amounts as determined pursuant to this Agreement. The City's obligation to make such remittances shall be a special limited obligation of the City payable solely from payments received from the CRA pursuant to this Agreement. Nothing contained in this Agreement shall be deemed to be or is a pledge or commitment of the City's General Fund revenues or other City assets to make the remittance payments as provided for in Part 1.9, and any remittance payments shall be solely from payments received from the CRA pursuant to this Agreement.

4. Termination of Agreement and All City-CRA Agreements Upon Termination of City's Participation in Voluntary Alternative Redevelopment Program; Self-Executing. In the event that the City does not make a remittance as required by Part 1.9 and the State Director of Finance makes the determination described in Health and Safety Code Section 34194(d)(2) or 34194.5 that the CRA shall be subject to Parts 1.8 and 1.85 of Division 24 of the Health and Safety Code, this Agreement and all City-CRA Cooperation Agreements shall be terminated, and of no further force and effect, without the need for any further action by the City Council, CRA Board of Directors, or any City or CRA officer, official, employee, agent, or representative. For purposes of this Agreement, "City-CRA Cooperation Agreements" shall mean any and all agreements, whether written or oral or by arrangement or general practice, by and between the City and CRA, which are not defined as "enforceable obligations" pursuant to Health and Safety Code Sections 34167 or 34170.5 (as may be amended from time to time) and which obligate the CRA to pay the City any amount of money or other consideration, including but not limited to City-CRA loan agreements that are not otherwise "enforceable obligations" (as defined above). It is the intent of the City and CRA by agreeing to the terms and conditions of this Section 4 that, upon the termination of the City's and CRA's participation in the Voluntary Alternative Redevelopment Program, neither the City nor the CRA shall owe any payments to either Party, and that no payments from the CRA to the City pursuant to any City-CRA agreement shall be assigned to the State as contemplated by Health and Safety Code Sections 34193.2 and 34195(b).

5. Reservation of Rights; Payments Under Protest; Termination of Agreement If AB X1 26 and/or 27 Ruled Unlawful; Self-Executing. The City and CRA reserve any and all rights to challenge the legality of ABX1 26 and ABX1 27, and the City and CRA reserve any and all rights to benefit from any other legal challenge that determines ABX1 26 or ABX1 27, or both, are unlawful. All remittance payments made by the City pursuant to this Agreement shall be made under protest and without prejudice to the City's right to recover such amounts and interest thereon unless and until there is a final determination by a court of competent jurisdiction that ABX1 26 and AB 1X 27 are constitutional and the remittance payments required therein are legally enforceable payment obligations of the City. For any action or actions challenging the validity of ABX1 26 or ABX1 27, or both, in the event that a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Voluntary Alternative Redevelopment Program's payment obligations of ABX1 26 and ABX1 27, the City shall

not be obligated to make any community remittance for the duration of such injunction, restraint, or stay, unless and until there is a final determination by a court of competent jurisdiction that AB X1 26 and AB 1X 27 are constitutional and the remittance payments required therein are legally enforceable payment obligations of the City. For any action or actions challenging the validity of ABX1 26 or ABX1 27, or both, in the event that a court of competent jurisdiction determines that either ABX1 26 or ABX1 27, or both, are unconstitutional or otherwise legally invalid, and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed, this Agreement shall be terminated, and of no further force and effect, without the need for any further action by the City Council, CRA Board of Directors, or any City or CRA officer, official, employee, agent, or representative.

6. **Indebtedness of CRA Prior to October 1, 2011.** The CRA's funding obligations in this Agreement are intended to and shall constitute an indebtedness of the CRA, incurred prior to October 1, 2011, within the meaning of Article XVI, Section 16, of the California Constitution and Health and Safety Code Sections 33670(b) and 34194(c)(2). The CRA shall include the total estimated indebtedness incurred by the CRA pursuant to this Agreement on the CRA's annual statements of indebtedness that CRA is required to annually file pursuant to Health and Safety Code Section 33675 (or successor statute). The estimated total indebtedness incurred by the CRA pursuant to this Agreement is shown on Exhibit "A" attached hereto and incorporated herein by this reference. Any increase to the total estimated indebtedness that may occur after the Effective Date of this Agreement shall constitute indebtedness incurred prior to October 1, 2011.

7. **Subordination.** The CRA's funding obligations hereunder shall be junior and subordinate to (i) all existing CRA tax allocation bonds or other direct long-term indebtedness of CRA secured and to be repaid by tax increment funds, (ii) all pledges by the CRA of tax increments for tax allocation bonds or other direct long-term indebtedness of the CRA secured and to be repaid by tax increment funds, (iii) other CRA financial agreements or other contractual obligations of the CRA with any person or entity not a party to this Agreement, including but not limited to any and all tax sharing or so-called "pass-through" agreements entered into between the CRA and any taxing entity; (iv) any contingent obligations of the CRA; and (v) other financial agreements or other contractual obligations between the parties to this Agreement.

8. **Non-Recourse Obligation.** No officer, official, employee, agent, or representative of the CRA or City shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action herein shall be personally enforced against any such officer, official, employee, agent, or representative.

9. **Indemnity.** In contemplation of Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being a party to an agreement defined by Government Code Section 895, the Parties hereto, as between themselves, agree that the CRA shall indemnify, defend, and hold harmless the City for any loss, costs, or expenses that may be imposed upon the City by virtue of a third party prevailing in a legal challenge to the validity, enforceability, or administration of

this Agreement. The provisions of Civil Code Section 2778 shall be applicable to this Agreement.

10. Entire Agreement and Full Integration. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to the subject matter of this Agreement.

11. Intended Parties; No Third Party Beneficiaries. This Agreement is intended solely for the benefit of the City and the CRA and their respective successors in interest; provided, however, that this Agreement shall be terminated in accordance with the terms and conditions set forth above in the event that the City or any other public agency becomes the "successor agency" to the CRA pursuant to Parts 1.8 and 1.85 of Division 24 of the Health and Safety Code. The City and CRA expressly covenant that there shall be no third party beneficiaries under this Agreement.

12. Waiver. Any waiver or amendment of the provisions of this Agreement must be in writing and signed by the authorized representatives of the Parties.

13. Severability. Each provision of this Agreement shall be severable from the whole, and if any provision of this Agreement shall be found contrary to law, the remainder of this Agreement shall remain in full force and effect.

14. Counterparts. This Agreement may be executed in duplicate originals, each of which shall be deemed to be an original.

15. Acknowledgment of Litigation Challenging ABX1 26 and ABX1 27. As of the date of approval of this Agreement, the California Supreme Court has exercised original jurisdiction in *California Redevelopment Association, et al., Petitioners v. Ana Matosantos, et al., Respondents*, Case No. S194861, a lawsuit challenging the constitutionality and validity of ABX1 26 and ABX1 27. In conjunction with exercising original jurisdiction in that case, the Court issued a partial stay on the enforcement of ABX1 26 and AB 1X 27 and the Court has indicated its intent to issue a ruling in the case in January 2012. As such, this Agreement is executed and entered subject to the condition subsequent that the Court upholds the constitutionality and validity of both ABX1 26 and AB 1X 27 which would then implement the City's remittance payment obligation under ABX1 27, as described in the Recitals of this Agreement, and require the payments by the CRA to the City as provided in this Agreement and subject to the terms of this Agreement. As set forth in Section 5 of this Agreement, if the California Supreme Court, or any other court, determines that either ABX1 26 or ABX1 27, or both, are unconstitutional or otherwise legally invalid, and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed, this Agreement shall automatically, and without the need for any further action by the City Council, CRA Board of Directors, or any City or CRA officer, official, employee, agent, or representative, be terminated and of no further force and effect.

[Signatures on next page]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first set forth above.

CITY OF PALM SPRINGS

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

COMMUNITY REDEVELOPMENT  
AGENCY OF THE CITY OF PALM  
SPRINGS

By \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney and Agency Attorney



Community Redevelopment Agency of the City of Palm Springs  
Merged Project No. 1 and Merged Project No. 2

Name of Redevelopment Agency:  
Project Area(s)

**PRELIMINARY DRAFT OF INITIAL RECOGNIZED 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	Source of Payment	Payments by month						Total	
						Aug-Dec	Jan	Feb	Mar	April	May		June
1) 2001 Housing Tax Allocation Bonds	Bank of New York Mellon Trust	Refinance 1991 Housing Tax Allocation Bonds	5,030,290	461,593	LMHF	368,854		92,759					92,759
2) 2004 Tax Allocation Refunding Bonds, Series A	Bank of New York Mellon Trust	Refinance 1994 Tax Allocation Bonds	24,470,866	1,200,053	RPTTF	824,554		375,489					375,489
3) 2004 Tax Allocation Refunding Bonds, Series B	Bank of New York Mellon Trust	Refinance 1994 Tax Allocation Bonds	14,453,293	607,008	RPTTF	390,628		216,378					216,378
4) 2007 Tax Allocation Bonds, Series A	Bank of New York Mellon Trust	Capital Projects	23,960,358	117,225	RPTTF	309,613		309,612					309,612
5) 2007 Taxable Tax Allocation Bonds, Series B	Bank of New York Mellon Trust	Property Acquisition	3,854,438	117,294	RPTTF	58,647		58,647					58,647
6) 2007 Taxable Tax Allocation Bonds, Series C	Bank of New York Mellon Trust	Property Acquisition	12,407,609	521,833	RPTTF	325,164		195,659					195,659
7) SB 211 Payment - Riverside County	Riverside County	Tax Sharing Pursuant to Section 33607.7	744,027	27,708	RPTTF	4,687						23,021	23,021
8) SB 211 Payment - City of Palm Springs	City of Palm Springs	Tax Sharing Pursuant to Section 33607.7	14,573,504	347,285	RPTTF	27,615		319,670					319,670
9) SB 211 Payment - Palm Springs Unified School District	Palm Springs Unified School District	Tax Sharing Pursuant to Section 33607.7	10,018,661	234,244	RPTTF	26,298		207,946					207,946
10) SB 211 Payment - College of the Desert	College of the Desert	Tax Sharing Pursuant to Section 33607.7	2,659,455	66,666	RPTTF	7,312		59,354					59,354
11) SB 211 Payment - County Office of Education	County Office of Education	Tax Sharing Pursuant to Section 33607.7	1,555,795	38,375	RPTTF	4,093		32,282					32,282
12) SB 211 Payment - Riverside County Regional Park	Riverside County Regional Park	Tax Sharing Pursuant to Section 33607.7	315,184	5,083	RPTTF	380		4,693					4,693
13) SB 211 Payment - Riverside County Flood Control	Riverside County Flood Control	Tax Sharing Pursuant to Section 33607.7	310,382	8,485	RPTTF	237		8,248					8,248
14) SB 211 Payment - Cemetery District	Cemetery District	Tax Sharing Pursuant to Section 33607.7	49,008	718	RPTTF	(109)		825					825
15) SB 211 Payment - Mosquito Abatement District	Mosquito Abatement District	Tax Sharing Pursuant to Section 33607.7	1,477,716	23,905	RPTTF	1,902		22,003					22,003
16) SB 211 Payment - Resource Conservation District	Resource Conservation District	Tax Sharing Pursuant to Section 33607.7	36,187	1,347	RPTTF	228		1,119					1,119
17) SB 211 Payment - Coachella Valley Water District	Coachella Valley Water District	Tax Sharing Pursuant to Section 33607.7	4,574	102	RPTTF	13		89					89
18) SB 211 Payment - CAVWD Storm Water District	CAVWD Storm Water District	Tax Sharing Pursuant to Section 33607.7	768	9	RPTTF	1		8					8
19) SB 211 Payment - Riverside County	Riverside County	Tax Sharing Pursuant to Section 33607.7	973	11	RPTTF	1		10					10
20) Contractual - Riverside County	Riverside County	Tax Sharing Pursuant to Section 33401	133,114,557	3,363,044	RPTTF	0	1,681,522						1,681,522
21) Contractual - Riverside County (Deferral)	Riverside County	Tax Sharing Pursuant to Section 33401	3,715,988	1,061,711	RPTTF	530,855							530,855
22) Contractual - Palm Springs Unified School District	Palm Springs Unified School District	Tax Sharing Pursuant to Section 33401	52,272,210	2,584,815	RPTTF	1,292,408		1,292,407					1,292,407
23) Contractual - College of the Desert	College of the Desert	Tax Sharing Pursuant to Section 33401	11,281,449	560,809	RPTTF	280,404		280,405					280,405
24) Contractual - County Office of Education	County Office of Education	Tax Sharing Pursuant to Section 33401	6,433,088	308,710	RPTTF	153,355		153,355					153,355
25) Contractual - Riverside County Flood Control	Riverside County Flood Control	Tax Sharing Pursuant to Section 33401	18,218,180	512,318	RPTTF	0	238,158						238,158
26) Contractual - Cemetery District	Cemetery District	Tax Sharing Pursuant to Section 33401	628,989	30,404	RPTTF	15,202		15,202					15,202
27) Contractual - Mosquito Abatement District	Mosquito Abatement District	Tax Sharing Pursuant to Section 33401	6,370,571	311,683	RPTTF	155,942		155,941					155,941
28) Contractual - Coachella Valley Water District	Coachella Valley Water District	Tax Sharing Pursuant to Section 33401	8,984	547	RPTTF	274		273					273
29) Contractual - Desert Water Agency	Desert Water Agency	Tax Sharing Pursuant to Section 33402	2,080,354	88,781	RPTTF	28,927		14,464					14,464
30) Contractual - Desert Water Agency DS Override	Desert Water Agency	Tax Sharing Pursuant to Section 33402	17,226,000	783,000	RPTTF	261,000		261,000					261,000
Totals - This Page			387,169,494	13,860,940		5,068,455	2,450,535	1,525,018	0	0	1,919,680	2,899,325	8,783,558
Totals - Page 2			84,667,671	7,311,815		1,708,444	86,200	488,843	588,200	1,395,400	662,194	2,188,495	5,387,132
Totals - Page 3			166,702,000	6,217,660		424,000	3,637,280	485,000	532,000	305,000	2,023,190	1,986,100	8,935,580
Grand total - All Pages			618,539,165	29,410,135		7,200,899	6,174,025	2,448,861	1,118,200	1,700,400	4,605,954	7,062,920	23,105,270

RPTTF = Redevelopment Property Tax Trust Fund  
LMHF = Low and Moderate Income Housing Fund  
ACA = Administrative Cost Allowance

Community Redevelopment Agency of the City of Palm Springs  
 Merged Project No. 1 and Merged Project No. 2

**PRELIMINARY DRAFT OF INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE**  
 Per AB 28 - Section 34167 and 34169 (\*)

Name of Redevelopment Agency:  
 Project Area(s)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Source of Payment	Payments by month						Total	
						Aug-Dec	Jan	Feb	Mar	April	May		June
1) SERAF Loans	Low Mod Housing Fund	Loans for FY 2009/10 and 2010/11 SERAF P	5,068,848	-	RPTTF	-	-	-	-	-	-	-	0
2) City Loan and Interest	City of Palm Springs	Operating and Administrative Costs	1,649,000	1,649,000	RPTTF	-	-	-	-	-	-	-	1,649,000
3) Agreement for Reimbursement	City of Palm Springs	PSL - 238 Lease	2,860,000	110,000	RPTTF	110,000	-	-	-	-	-	-	1,849,000
4) Agreement for Reimbursement	City of Palm Springs	Partial Prepayment of PSL 238 Lease	1,516,690	101,108	RPTTF	-	-	-	-	-	-	-	101,108
5) Loan	Low Mod Housing Fund	Loan to Merged Project No. 1	148,632	74,316	RPTTF	-	-	-	-	-	-	-	74,316
6) Housing Deferral Repayment	Low Mod Housing Fund	Pre-1988 Sat Aside Deferral	1,532,889	-	RPTTF	-	-	-	-	-	-	-	0
7) 2004 Convention Center Bonds	City of Palm Springs	Agency Contribution to Convention Center B	36,800,000	1,600,000	RPTTF	800,000	-	-	-	-	-	-	800,000
8) Agreement for Reimbursement	City of Palm Springs Wastewater Fund	Agency Contribution to Convention Center B	1,120,980	73,620	RPTTF	-	-	-	-	-	-	-	73,620
9) Cooperative Agreement	City of Palm Springs	Salaries and Benefits	20,705,000	613,460	ACA	257,000	52,000	52,000	52,000	52,000	52,000	52,000	312,000
10) Cooperative Agreement	City of Palm Springs	Insurance	335,000	11,736	ACA	2,934	-	-	-	-	-	-	2,934
11) Cooperative Agreement	City of Palm Springs	Administrative Changes	2,185,000	292,241	ACA	73,060	73,060	73,060	73,060	73,060	73,060	73,060	5,988
12) Cooperative Agreement	City of Palm Springs	Materials and Supplies	1,080,000	35,069	ACA	3,000	3,000	3,000	3,000	3,000	3,000	3,000	148,120
13) Cooperative Agreement	City of Palm Springs	Building Rental	496,000	16,000	ACA	16,000	-	-	-	-	-	-	16,000
14) Contract Services - Audit	Lance Soli & Lunghard	Audit Services	518,000	11,000	ACA	11,000	-	-	-	-	-	-	11,000
15) Contract Services - Legal	Woodruff Spradlin	General Legal Counsel	1,817,000	57,700	ACA	20,000	5,000	5,000	5,000	5,000	5,000	5,000	30,000
16) Contract Services - Consulting	Best Best & Kreiger	Redevelopment Special Counsel	5,000	5,000	ACA	2,000	-	-	-	-	-	-	2,000
17) Contract Services - Consulting	Terra Nova Consulting	Consulting Services	4,500	4,500	ACA	4,500	-	-	-	-	-	-	4,500
18) Contract Services - Consulting	Canyon Commercial Consulting	Downtown Consulting	108,000	108,000	ACA	43,200	10,800	10,800	10,800	10,800	10,800	10,800	64,800
19) Contract Services - Consulting	Keyser Marston	Financial Analysis Services	8,360	8,360	ACA	8,360	-	-	-	-	-	-	8,360
20) Contract Services - Financial	Herrell & Company Advisors	Bond Disclosure and Financial Analysis	20,000	20,000	ACA	5,000	5,000	5,000	5,000	5,000	5,000	5,000	15,000
21) Property Tax	County of Riverside	Property Tax on Acquired Property	8,400	8,400	RPTTF	4,200	-	-	-	-	-	-	4,200
22) Contract Services - Other	Various	Various Consulting Services	4,296,000	229,615	ACA	60,000	15,000	15,000	15,000	15,000	15,000	15,000	90,000
23) 2011 Open PO - Animal Shelter	Allen F. Shoop & Associates	Animal Shelter Construction	32,856	32,856	Bond Proceeds	32,856	-	-	-	-	-	-	32,856
24) 2011 Open PO - Animal Shelter	Swat/Weirs Architects	Animal Shelter Construction	21,866	21,866	Bond Proceeds	21,866	-	-	-	-	-	-	21,866
25) 2011 Open PO - Animal Shelter	Plant Reprographics	Animal Shelter Construction	906	906	Bond Proceeds	906	-	-	-	-	-	-	906
26) 2011 Open PO - Animal Shelter	Ingersoll Rand Security	Animal Shelter Construction	26,015	26,015	Bond Proceeds	26,015	-	-	-	-	-	-	26,015
27) 2011 Open PO - Animal Shelter	West Test Communications	Animal Shelter Phone System	9,027	9,027	Bond Proceeds	9,027	-	-	-	-	-	-	9,027
28) 2011 Open PO - Animal Shelter	Moore Jacobino Goltzman	Downtown Design	2,065	2,065	Bond Proceeds	2,065	-	-	-	-	-	-	2,065
29) 2011 Open PO - Animal Shelter	Schroer Mfg Co	Animal Shelter Kennels and Intake Cages	17,984	17,984	Bond Proceeds	17,984	-	-	-	-	-	-	17,984
30) 2011 Open PO - Animal Shelter	Lake State Industries	Animal Shelter Cages	4,469	4,469	Bond Proceeds	4,469	-	-	-	-	-	-	4,469
31) 2011 Open PO - Construction	Rick Engineering	S Palm Canyon W/tening	5,198	5,198	Fund Balance	5,198	-	-	-	-	-	-	5,198
32) 2011 Open PO - Audit	Lance Soli & Lunghard	Audit Services	1,550	1,550	ACA	1,550	-	-	-	-	-	-	1,550
33) 2011 Open PO - Financial	Herrell & Company Advisors	Bond Disclosure and Financial Analysis	6,657	6,657	ACA	6,657	-	-	-	-	-	-	6,657
34) Grounds Maintenance	Various	Operation of Acquired Property	160,000	8,000	RPTTF	6,000	400	400	400	400	400	400	2,000
35) Continuing Appropriations	Various	Animal Shelter Construction (Bond Proceeds)	91,073	91,073	Bond Proceeds	91,073	-	-	-	-	-	-	91,073
36) Continuing Appropriations	Various	COD Master Plan	101,448	101,448	Fund Balance	50,000	51,448	-	-	-	-	-	101,448
37) Continuing Appropriations	Various	Desert Fashion Plaza Vision	3,444	3,444	Fund Balance	3,444	-	-	-	-	-	-	3,444
38) Continuing Appropriations	Various	Capital Projects	765,557	765,557	Fund Balance	765,557	-	-	-	-	-	-	765,557
39) Housing Projects and Programs	To Be Determined	Restricted Sale Proceeds to be used for Low	162,630	162,630	LMIHF	162,630	-	-	-	-	-	-	162,630
40) Capital Projects	Various	Bond Funded Capital Projects (2007 Bond Pr	1,021,466	1,021,466	Bond Proceeds	250,000	250,000	250,000	250,000	250,000	250,000	250,000	1,021,466
Totals - This Page			84,667,871	7,311,615		1,708,444	88,200	468,643	586,200	1,395,400	892,194	2,186,495	5,397,132

RPTTF = Redevelopment Property Tax Trust Fund  
 LMIHF = Low and Moderate Income Housing Fund  
 ACA = Administrative Cost Allowance

Name of Redevelopment Agency: Community Redevelopment Agency of the City of Palm Springs  
 Project Area(s): Merged Project No. 1 and Merged Project No. 2

**PRELIMINARY DRAFT OF INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Source of Payment	Payments by month					EOFS Total Aug-Dec	Total
						Jan	Feb	Mar	April	May		
1) Property Tax Collection Fees	County of Riverside	SB 2557 Fees	8,211,000	243,000	RPTTF	243,000						243,000
2) Bond Trustee Fees	Bank of New York Mellon Trust	Trustee Fees	299,600	9,000	RPTTF							9,000
3) Disposition and Development Agreement	Endure Investments	Financial Assistance	554,000	277,000	Fund Balance			227,000				227,000
4) Disposition and Development Agreement	Endure Investments	Financial Assistance	1,400,000	140,000	Fund Balance							140,000
5) Owner Participation Agreement	VIP Motors	Financial Assistance	900,000	150,000	RPTTF		150,000					150,000
6) Lease/Sublease Agreement	VIP Motors	Property Lease	3,950,000	660,000	Lease Income		55,000	55,000	55,000	55,000		330,000
7) 20% Housing Set Aside	Low Mod Housing Fund	Housing Projects and Programs	109,475,400	3,242,200	RPTTF		1,621,100					1,621,100
8) Flood Control Trust Fund	Various	Flood Control Tax Sharing Agency Account	1,800,000		Reserve							
9) Nightingale Manor Improvements	Low Mod Housing Fund	Flood Control Tax Sharing Agency Account	60,000	60,000	LMHF							60,000
10) Housing Projects and Programs	Low Mod Housing Fund	Fund Balance Designated for Housing Project	10,160,000		LMHF		250,000	250,000	250,000	250,000		1,250,000
11) Remittance Agreement	City of Palm Springs	Reimbursement for AB 27 Payments	28,921,000	3,436,380	RPTTF		1,718,190			1,718,190		3,436,380
12)												
13)												
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<b>Totals - This Page</b>			<b>\$ 166,702,000.00</b>	<b>8,217,580</b>			<b>455,000</b>	<b>532,000</b>	<b>305,000</b>	<b>2,023,190</b>	<b>1,985,100</b>	<b>8,938,960</b>

RPTTF = Redevelopment Property Tax Trust Fund  
 LMHF = Low and Moderate Income Housing Fund  
 ACA = Administrative Cost Allowance

RESOLUTION NO.

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS APPROVING A PRELIMINARY DRAFT OF AN INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE (IROPS) PURSUANT TO PART 1.8 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS THEREWITH

RECITALS:

- A. The Community Redevelopment Agency of the City of Palm Springs (the "Agency") is a redevelopment agency in the City of Palm Springs (the "City"), created pursuant to the Community Redevelopment Law [California Health & Safety Code §§33000, et seq.] ("Redevelopment Law").
- B. The Central Business District Redevelopment Project was established on July 11, 1973, by Ordinance No. 959 and amended by Ordinance No. 1276 on November 11, 1986, Ordinance No. 1497 on December 21, 1994, Ordinance 1576 on December 15, 1999; Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and Ordinance No. 1760 adopted May 27, 2009; and
- C. The South Palm Canyon Redevelopment Project was established on November 30, 1983, by Ordinance No. 1203 and amended by Ordinance No. 1494 on December 21, 1994, Ordinance 1576 on December 15, 1999; Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and Ordinance No. 1760 adopted May 27, 2009; and
- D. The Ramon-Bogie Project was established on November 30, 1983, by Ordinance No. 1202 and amended by Ordinance No. 1490 on December 21, 1994, Ordinance 1576 on December 15, 1999; Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and Ordinance No. 1760 adopted May 27, 2009; and
- E. The Oasis Redevelopment Project was established on July 10, 1994, by Ordinance No. 1224 and amended by Ordinance No. 1495 on December 21, 1994, Ordinance 1576 on December 15, 1999; and Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and
- F. The North Palm Canyon Redevelopment Project was established on September 19, 1984, by Ordinance No. 1227 and amended by Ordinance No. 1498 on December 21, 1994, Ordinance 1576 on December 15, 1999; and Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and
- G. The Highland-Gateway Redevelopment Project was established on November 20, 1984, by Ordinance No. 1231 and amended by Ordinance No. 1491 on December 21, 1994, Ordinance 1576 on December 15, 1999; and Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and

- H. Project Area No. 9 was established on December 29, 1988, by Ordinance No. 1321 and amended by Ordinance No. 1496 on December 21, 1994 and Ordinance Nos. 1649 and 1651 adopted May 4, 2004; and
- I. The Central Business District Redevelopment Project, the South Palm Canyon Redevelopment Project, the Ramon-Bogie Redevelopment Project, the Oasis Redevelopment Project, the North Palm Canyon Redevelopment Project, and the Highland-Gateway Redevelopment Project were merged on May 31, 2000, by Ordinance No. 1584 to become Merged Project Area No. 1; and
- J. The Tahquitz-Andreas Redevelopment Project was established on July 19, 1983, by Ordinance No. 1187 and amended by Ordinance No. 1489 on December 21, 1994; Ordinance 1576 on December 15, 1999; Ordinance Nos. 1650 and 1652 adopted May 4, 2004; and Ordinance No. 1760 adopted May 27, 2009; and
- K. The Baristo-Farrell Redevelopment Project was established on May 7, 1986, by Ordinance No. 1267 and amended by Ordinance No. 1493 on December 21, 1994; Ordinance 1576 on December 15, 1999; and Ordinance Nos. 1650 and 1652 adopted May 4, 2004; and
- L. The Canyon Redevelopment Project was established on July 19, 1991, by Ordinance No. 1388 and amended by Ordinance No. 1492 on December 21, 1994 and Ordinance Nos. 1650 and 1652 adopted May 4, 2004; and
- M. The Tahquitz-Andreas Redevelopment Project, the Baristo-Farrell Redevelopment Project and the Canyon Redevelopment Project were merged on May 31, 2000, by Ordinance No. 1583 to become Merged Project Area No. 2; and
- N. The Agency is undertaking a program to redevelop the Project Areas.
- O. AB 1X 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 1X 26, AB 1X 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 1X 26 dissolves all existing redevelopment agencies and redevelopment agency components of community development agencies, provides for the designation of successor agencies as successor entities to 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.
- P. Health and Safety Code Section 34169(h), which is set forth in Part 1.8, requires a redevelopment agency to prepare a preliminary draft of an Initial Recognized Obligation Payment Schedule by no later than September 30, 2011. The IROPS must list the minimum amounts that must be paid by the successor agency over a

six (6) month period to fulfill its *enforceable obligations* during that period, with the first schedule covering the period from January 1, 2012 to June 30, 2012.

- Q. AB 1X 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 (with the earliest deadline being October 1, 2011), by the City Council of the city which includes that redevelopment agency of an ordinance to comply with Part 1.9. Pursuant to Health and Safety Code Section 34192, if a city participates in the Alternative Voluntary Program and complies with all requirements and obligations contained in Part 1.9, the redevelopment agency in that city will be exempt from Part 1.8 and Part 1.85.
- R. The California Redevelopment Association and League of California Cities have filed a lawsuit in the Supreme Court of California alleging that AB 1X 26 and AB 1X 27 are unconstitutional. On August 11, 2011, the Supreme Court of California decided to hear the case and set a briefing schedule designed to allow the Supreme Court to decide the case before January 15, 2012. On August 11, 2011, the Supreme Court also issued a stay order, which was subsequently modified on August 17, 2011. Pursuant to the modified stay order, the Supreme Court granted a stay of all of AB 1X 27 (i.e., Part 1.9), except for Health and Safety Code Section 34194(b)(2) (relating to the determination of cities' fiscal year 2011-12 remittance amounts) and a partial stay of AB 1X 26. With respect to AB 1X 26, Part 1.85 was stayed in its entirety, but Part 1.8 (including Health and Safety Code Sections 34167 and 34169) was not stayed. Accordingly, the Agency desires to approve a preliminary draft of an Initial Recognized Obligations Repayment Schedule.

**NOW, THEREFORE, THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:**

- Section 1. The above recitals are true and correct and are a substantive part of this Resolution.
- Section 2. This Resolution is adopted pursuant to Health and Safety Code Section 34169.
- Section 3. The Agency hereby approves the preliminary draft of an Initial Recognized Obligations Repayment Schedule substantially in the form attached as Exhibit A to this Resolution and incorporated herein by reference (the "IROPS"). The Executive Director of the Agency, in consultation with the Agency's legal counsel, may modify the IROPS as the Executive Director or Agency Counsel deems necessary or advisable.

- Section 4. The Agency Secretary is hereby authorized and directed to transmit a copy of the IROPS to the successor agency designated pursuant to Part 1.85 if a successor agency has been designated.
- Section 5. The Agency hereby designates the Director of Finance or the Director of Community & Economic Development as the officials to whom the Department of Finance may make requests for review in connection with the ROPS and who shall provide the Department of Finance with the telephone and e-mail contact information for the purpose of communicating with the Department of Finance.
- Section 6. The officers and staff of the Agency are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution, and any such actions previously taken by such officers are hereby ratified and confirmed.
- Section 7. The approval of the IROPS is not intended and shall not constitute a waiver by the Agency of any right the Agency may have to challenge the legality of all or any portion of AB 1X 26 or AB 1X 27 through administrative or judicial proceedings.
- Section 8. This Resolution 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 Council has determined that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution 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)).

PASSED, APPROVED and ADOPTED this \_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

David H. Ready, Executive Director

ATTEST:

---

James Thompson, Agency Secretary

Approved as to form:

---

Douglas C. Holland, Agency Counsel



RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS REDUCING ITS ALLOCATION TO THE LOW AND MODERATE INCOME HOUSING FUND FOR THE 2011-12 FISCAL YEAR AND MAKING CERTAIN FINDINGS AND DETERMINATIONS

THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. Sections 33334.2 and 33334.3 of California's Community Redevelopment Law [Health & Safety Code §§33000, et seq.] ("CRL") require the Community Redevelopment Agency of the City of Palm Springs ("Agency") to use twenty percent (20%) of taxes allocated to the Agency pursuant to Section 33670 of the CRL ("Tax Increment") for the purpose of increasing, improving, and preserving the community's supply of low and moderate income housing and to hold such funds in a separate Low and Moderate Income Housing Fund until used ("Low and Moderate Income Housing Fund").

Section 2. Assembly Bill 1X 27 ("AB 27") was passed by the State Legislature and signed by the Governor on June 29, 2011 and is codified as Part 1.9 of the California Health and Safety Code ("Part 1.9").

Section 3. AB 1X 27, upon the concurrent enactment of Assembly Bill 1X 26, establishes a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City of Palm Springs ("City") to comply with the provisions of Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Remittance Ordinance").

Section 4. AB 1X 27 authorizes the Agency to enter into an agreement with the City whereby the Agency would transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor-Controller ("Remittance Agreement").

Section 5. AB 1X 27 authorizes the Agency to reduce its allocation of Tax Increment to the Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year if the City complies with the provisions of Part 1.9 and the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligations under the Remittance Agreement.

Section 6. The Agency has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting and believes that it will be in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements to reduce its allocation of Tax Increment to the

Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year by **\$3,215,600** ("Allocation Reduction").

Section 7. All other legal prerequisites to the adoption of this Resolution have occurred.

Section 8. The Agency has received and heard all oral and written objections pertaining to this matter, and all such oral and written objections are hereby overruled.

Section 9. The Agency hereby finds and determines that the foregoing recitals are true and correct.

Section 10. Based upon evidence in the record, the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligations under the Remittance Agreement, and that funds in its Debt Service and Capital Improvement Funds have been earmarked for existing bonded debt obligations, payment under development agreements, repayment of the City operating loan, amounts due under tax sharing agreements and the first installment for the borrowing of the 2009-10 SERAF payment from the Housing Fund.

Section 11. The Agency finds and determines that it is necessary to implement the Allocation Reduction for the 2011-2012 Fiscal Year.

Section 12. The Agency Executive Director, or designee, is hereby authorized to take such actions as are necessary and appropriate to carry out and implement the Allocation Reduction for the 2011-2012 Fiscal Year upon the City's enactment of the Remittance Ordinance.

Section 13. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED and ADOPTED this \_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
David H. Ready  
Executive Director

ATTEST:

\_\_\_\_\_  
James Thompson, Agency Secretary

Approved as to form:

\_\_\_\_\_  
Douglas C. Holland, Agency Counsel

CITY OF PALM SPRINGS  
REQUEST FOR BUDGET ADJUSTMENT

FROM: Finance

TO: FINANCE

TOTAL AMOUNT OF TRANSFER \$ 3,215,600.00

FROM:

TO:

FUND/DEPT/ACCOUNT # 851 & 852 - 65012 All	FUND/DEPT/ACCOUNT # 851 & 852 - Pending All
ACCOUNT NAME: Low/Mod Housing Pass Thru	ACCOUNT NAME: Voluntary Alternative Contribution Prg
ACCOUNT BALANCE** \$3,215,600.00	ACCOUNT BALANCE** \$0.00

**\*\* Please check the account balance to verify that funds are available for transfer**

Outline need for transfer:

AB1X27 payment

Explain why funds are available for transfer:

Low/Mod Housing Pass Thru payments suspended for FY 11-12

Describe any budgeted program which will be sacrificed because of transfer:

None

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

  
Department Head

Date: 9/14/11

Assistant City Manager

Date: \_\_\_\_\_

Approved by:   
Finance

Date: 9-14-2011

City Manager

Date: \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT  
AGENCY OF THE CITY OF PALM SPRINGS, CALIFORNIA,  
AMENDING THE BUDGET FOR FISCAL YEAR 2011-12.

WHEREAS, Resolution No. 1420 approving the Budget for the Fiscal Year 2011-2012 was adopted on June 1, 2011; and

WHEREAS the City Manager has recommended, and the City Council desires to approve, certain amendments to the budget for Fiscal Year 2011-12.

NOW THEREFORE THE CITY COUNCIL DETERMINES, RESOLVES AND APPROVES AS FOLLOWS:

SECTION 1. The Director of Finance is authorized to record inter-fund cash transfers as required in accordance with this Resolution, and Resolution No. 1420, adopting the Budget for Fiscal Year 2011-12 is hereby amended as follows:

SOURCE(S):

Fund	Activity	Account	Amount
852 Merged Area #2	29301	Fund Balance	220,780

ADDITION(S):

Fund	Activity	Account	Amount
852 Merged Area #2	8202 Tahquitz Andreas	Pending Voluntary Alternative Cont Prg	220,780

PURPOSE:

ADOPTED THIS 21TH DAY OF September, 2011.

\_\_\_\_\_  
David H. Ready, City Manager

ATTEST:

\_\_\_\_\_  
James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. \_\_\_\_\_ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

James Thompson, City Clerk  
City of Palm Springs, California

CITY OF PALM SPRINGS  
REQUEST FOR **OFFSETTING** BUDGET ADJUSTMENT

FROM: Finance

TO: FINANCE

**TOTAL ADJUSTMENT**      \$ 3,436,380.00

**OFFSETTING REVENUE SOURCE:**

Fund/Account #	Account Name:	Amount \$
<u>001-Pending</u>	<u>Voluntary Alternative Contribution Program</u>	<u>3,436,380.00</u>

**TOTAL**      \$ 3,436,380.00

**EXPENDITURE ACCOUNT INCREASE:**

Fund/Dept/Account #	Account Name:	Amount \$
<u>001-1400-Pending</u>	<u>Voluntary Alternative Contribution Program</u>	<u>3,436,380.00</u>

**TOTAL**      \$ 3,436,380.00

Explain the new or increased revenue:

Remittance agreement funds from CRA

Describe the need for the increased expenditure:

Voluntary Alternative Contribution Program Payment

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

  
Department Head

Date: 9/14/11

Assistant City Manager

Date: \_\_\_\_\_

Approved by:   
Finance

Date: 9-14-2011

City Manager

Date: \_\_\_\_\_

*This form should **only** be used when an expenditure increase request is being justified by a related increase in revenue.*