

ORDINANCE NO. 3202

ORDINANCE OF THE CITY OF CHULA VISTA AUTHORIZING  
THE CITY OF CHULA VISTA TO PARTICIPATE IN THE  
ALTERNATIVE “VOLUNTARY” REDEVELOPMENT  
PROGRAM, PURSUANT TO PART 1.9 OF DIVISION 24 OF THE  
CALIFORNIA HEALTH AND SAFETY CODE, SUBJECT TO  
CERTAIN CONDITIONS AND RESERVATIONS

WHEREAS, the Redevelopment Agency of the City of Chula Vista, (“Agency”) is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, et seq. (“CRL”) and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council (“City Council”) of the City of Chula Vista (“City”); and

WHEREAS, the City Council of the City of Chula Vista (“City”) approved and adopted a Redevelopment Plan (“Redevelopment Plan”) covering the Merged Bayfront/Town Centre I and Merged Chula Vista project areas (the “Project Areas”) within the City of Chula Vista; and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Areas 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 x1 26 and AB x1 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, AB x1 26 prohibits redevelopment agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that redevelopment agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, AB x1 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 this Ordinance is intended to meet that requirement; and

WHEREAS, AB x1 27 requires the City to notify the County Auditor-Controller (“County”), the State Controller, and the State Department of Finance on or before November 1, 2011, that the City will comply with Part 1.9 and this Ordinance is intended to be such notice; and

WHEREAS, AB x1 27 authorizes the City to enter into an Agreement with the Agency, whereby the Agency may transfer a portion of its tax increment to the City for the purpose of financing certain activities within the City’s redevelopment areas, as specified in Part 1.9; and

WHEREAS, AB x1 27 imposes specified sanctions on the City in the event that the City fails to make the required remittances, as determined by the Director of Finance; 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 this Ordinance is intended to be such agreement to make the required remittances; and

WHEREAS, under the threat of dissolution pursuant to AB x1 26, and upon the contingencies and reservations set forth herein, the City intends to make the Fiscal Year 2011/2012 community remittance, currently estimated to be Four Million Two Hundred Thousand Dollars (\$4,200,000), as well as the subsequent annual community remittances pursuant to the CRL; and

WHEREAS, the City reserves the right to appeal the California Director of Finance’s determination of the Fiscal Year 2011/2012 community remittance, as provided in Health and Safety Code Section 34194; and

WHEREAS, the City understands and believes that an action challenging the constitutionality of AB x1 26 and AB x1 27 will be filed on behalf of cities, counties and redevelopment agencies; and

WHEREAS, while the City currently intends to make these community remittances, they shall be made under protest and without prejudice to the City’s right to recover such amounts and interest thereon, to the extent there is a final determination that AB x1 26 and AB x1 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 x1 26 and AB x1 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Alternative Voluntary Redevelopment Program’s payment obligation of AB x1 26 and AB x1 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHULA VISTA 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 x1 27. This ordinance is that ordinance referred to in CRL Section 34193.

Section 3. Community Remittance. To the extent permitted by law, 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 x1 26 and AB x1 27 or determines that AB x1 26 and AB x1 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 x1 26 and AB x1 27 are unconstitutional. If there is a final determination that AB x1 26 and AB x1 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 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 x1 27.

Section 6. Additional Understandings and Intent. It is the understanding and intent of the City Council that, once the Agency is again authorized to enter into agreements under the CRL, the City will enter into an agreement with the Agency, as authorized pursuant to Section 34194.2, whereby the Agency will transfer annual portions of its tax increment to the City in amounts not to exceed the annual community remittance payments.

Section 7. CEQA. The City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a "project," but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Diego in accordance with CEQA Guidelines.

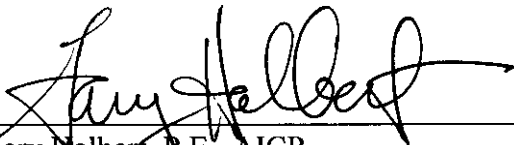
Section 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City Clerk's office located at 276 Fourth Avenue, Chula Vista, CA 91910.

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 Chula Vista, 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.

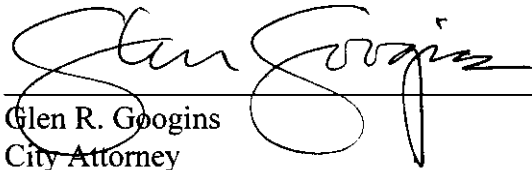
Section 11. Effective Date. This Ordinance shall become effective thirty (30) days from its adoption.

Presented by



Gary Halbert, R.E., AICP  
Assistant City Manager/Director of  
Development Services

Approved as to form by



Glen R. Googins  
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 9th day of August 2011, by the following vote:

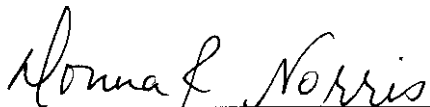
AYES: Councilmembers: Aguilar, Castaneda, Ramirez and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: Bensoussan

  
\_\_\_\_\_  
Cheryl Cox, Mayor

ATTEST:

  
\_\_\_\_\_  
Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO    )  
CITY OF CHULA VISTA     )

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3202 had its first reading at a regular meeting held on the 2nd day of August 2011 and its second reading and adoption at a regular meeting of said City Council held on the 9th day of August 2011; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

August 22, 2011  
Dated

  
\_\_\_\_\_  
Donna R. Norris, CMC, City Clerk