

ORDINANCE NO. 1572(11)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMPOC, CALIFORNIA,
DETERMINING TO 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 LOMPOC REDEVELOPMENT AGENCY**

WHEREAS, on October 5, 1965, the City Council of the City of Lompoc (the "City") activated the Lompoc Redevelopment Agency ("Agency") by adoption of Ordinance No. 768; and

WHEREAS, the City has approved and adopted the Redevelopment Plan for the Old Town Lompoc Redevelopment Project ("Redevelopment Plan") covering certain properties within the City (the "Project Area"); and

WHEREAS, the 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 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, specifically, 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 continue to 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 to remit specified annual amounts to the county auditor-controller and adopt an ordinance stating it will remit such amounts; and

WHEREAS, under the threat of dissolution of the Agency pursuant to AB X1 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 One Million, One Hundred Seventy-Four Thousand, Nine Hundred Thirty-Seven Dollars (\$1,174,937.00), as well as the subsequent annual community remittances as set forth in the CRL; and

WHEREAS, the City reserves the right to appeal the California Director of Finance's determination of the Fiscal Year 2011-12 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 has been filed by the California Redevelopment Association, the League of California Cities and others, 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 provisions 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 LOMPOC DOES HEREBY 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, to the extent

required or permitted by law, comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as enacted by AB X1 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 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. This Ordinance shall not effect or give rise to any waiver of rights or remedies that the City may have, whether in law or in equity, to challenge AB X1 26 or AB X1 27. This Ordinance shall not be construed as the City's willing acceptance of, or concurrence with, either AB X1 26 or AB X1 27; nor does this Ordinance evidence any assertion or belief whatsoever on the part of the City that said bills are constitutional or lawful.

SECTION 5. Implementation. The City Council hereby authorizes and directs the City Administrator to take any action and execute any documents necessary to implement this Ordinance, including but not limited to notifying the Santa Barbara 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, following the effective date of this Ordinance, the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2, whereby the Agency will transfer 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. The City reserves the right to withdraw from making the payments required by AB X1 27 should the amount of such payments (as will be determined by the State Department of Finance) prove to be in excess of the City's available funds not otherwise obligated for other uses.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it

would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion or the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 8. Effective Date. This Ordinance shall be effective thirty (30) days after its enactment.

PASSED AND ADOPTED this ___ day of _____ 2011, by the following electronic vote:

AYES: Councilmember:

NOES: Councilmember:

PASSED, APPROVED and ADOPTED this ___ day of _____ 2011.

John H. Linn, Mayor
City of Lompoc

Attest:

Stacey Alvarez, City Clerk
City of Lompoc