

RESOLUTION 11-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLIAMS, CALIFORNIA CONDITIONALLY APPROVING AND AUTHORIZING THE EXECUTION OF A COMMUNITY REMITTANCE FUNDING AGREEMENT BY AND BETWEEN THE CITY AND THE CITY OF WILLIAMS REDEVELOPMENT AGENCY PROVIDING FOR THE TRANSFER OF TAX INCREMENT REVENUE TO THE CITY IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF THE COMMUNITY REMITTANCE REQUIRED UNDER AB 1X 27

WHEREAS, pursuant to the Community Redevelopment Law (Health and Safety Code sections 33000 *et seq.*) (“CRL”), the City Council of the City of Williams (“City”) created the City of Williams Redevelopment Agency (“Agency”) to serve as the redevelopment agency within the City; and

WHEREAS, the Agency has been responsible for implementing the Redevelopment Plan for the Williams Redevelopment Project Area covering certain properties within the City (“Project Area”); and

WHEREAS, as part of the 2011-2012 State budget bill, companion bills AB 1X 26 and AB 1X 27 require that each agency formed under the CRL be dissolved unless the community that created it enacts an ordinance committing it to 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; and

WHEREAS, on August 17, 2011, the City elected to participate in the Alternative Voluntary Redevelopment Program by adoption of Ordinance No. 187-11, stating the City’s election to participate in the program (“Ordinance”); and

WHEREAS, participation in the Alternative Voluntary Redevelopment Program requires the City to remit specified annual amounts to the county auditor-controller (“Community Remittance”); and

WHEREAS, the California Director of Finance has notified the City that its Community Remittance for Fiscal Year 2011-2012 is _____ Dollars (\$_____); and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. 5194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement of AB 1X 26 and AB 1X 27 pending the Supreme Court’s determination of the constitutionality of AB 1X 26 and AB 1X 27; and

WHEREAS, on August 11, 2011, the Supreme Court agreed to take the case and issued an order for the immediate stay of enforcement of AB 1X 26 in part, which suspended all new redevelopment activity, and AB 1X 27 in its entirety, such that the City and the Agency cannot currently pursue new redevelopment activity under the Alternative Voluntary Redevelopment Program; and

WHEREAS, on August 17, 2011, the Supreme Court modified its order to clarify that Health and Safety Code Sections 34161 through 34169.5, enacted by AB 1X 26, and Health and Safety Code Section 34194(b)(2), enacted by AB 1X 27, are not stayed (“Court’s Stay”); and

WHEREAS, California Health and Safety Code Section 34194.2, which is currently not effective as a result of the Court’s Stay, provides that the City may enter into an agreement with the Agency, whereby the Agency will annually transfer tax increment revenue to the City, in an amount not to exceed the amount of the Community Remittance for such fiscal year, for the purpose of financing activities within the Project Area related to the Agency’s goals (“Agreement”); and

WHEREAS, because Health and Safety Code Section 34194.2 is stayed by the Court’s Stay, the Agency and the City desire to enter into this Agreement, effective on the condition that the Supreme Court orders that the Court’s Stay be lifted or modified in a manner that permits the Agency and the City to enter into the Agreement to establish a yearly obligation of the Agency to transfer tax increment revenue to the City on the condition that the Agency’s transfer of tax increment revenue and the City’s payment of the Community Remittance will be made only if there is a final determination that AB 1X 26 and AB 1X 27 are constitutional and the Ordinance electing to participate in the Alternative Voluntary Redevelopment Program is valid and effective for such purpose or later ratification or re-adoption of such Ordinance by the City or adoption of a new ordinance by the City and, in each case, such action is effective to allow the City and the Agency to proceed pursuant to the Alternative Voluntary Redevelopment Program; and

WHEREAS, the City reserves the right, whether any Community Remittance has been paid, to challenge the legality of AB 1X 26 and AB 1X 27; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WILLIAMS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. Finding. Upon consideration of the facts set forth in the staff report accompanying this Resolution and other written and oral evidence presented to the City Council, the City Council finds that the transfer of tax increment revenue from the Agency to the City for the funding of the Community Remittance payment by the City will: (1) allow the Agency to remain in existence and continue to act to accomplish the Agency’s goals in the Project Area and is in the best interests of the health, safety and welfare of the City’s residents; and (2) free the City from

committing general fund revenues or other City assets to pay the Community Remittance for any fiscal year.

SECTION 3. Approval of Agreement. The City Council hereby conditionally approves the Agreement, in substantially the form attached hereto as Exhibit A and incorporated herein by reference. The Agreement shall be effective upon the Court's Stay being lifted or modified in a manner that permits the Agency and the City to enter into the Agreement and the Ordinance electing to participate in the Alternative Voluntary Redevelopment Program is valid and effective for such purpose or later ratification or re-adoption of such Ordinance by the City or adoption of a new ordinance by the City and, in each case, such action is effective to allow the City and the Agency to proceed pursuant to the Alternative Voluntary Redevelopment Program. The Agreement provides that the Agency's obligation to transfer tax increment revenues to the City and the City's payment of the Community Remittance will be conditioned upon: (1) a final determination that AB 1X 26 and AB 1X 27 are constitutional; and (2) the Ordinance being valid and effective for such purpose or later ratification or re-adoption of such Ordinance by the City or adoption of a new ordinance by the City and, in each case, such action is effective to allow the City and the Agency to proceed pursuant to the Alternative Voluntary Redevelopment Program. The City Council authorizes and directs the City Manager to execute the Agreement on behalf of the City, subject to any minor clarifying, conforming and technical changes as may be approved by the City Attorney. The City Manager is further authorized and directed to take such actions and execute such documents as may be necessary to carry out the obligations of the City under the Agreement.

SECTION 4. CEQA. The City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Resolution 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 Colusa in accordance with CEQA Guidelines.

SECTION 5. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 6. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 7. Effective Date. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council on the 28th day of September, 2011 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Angela Plachek-Fulcher, Mayor

ATTEST:

Charles Bergson, Interim City Clerk

Exhibit A

Community Remittance Funding Agreement