

ITEM 9.A.

ORDINANCE NO. 407

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, DETERMINING TO COMPLY WITH THE ALTERNATIVE VOLUNTARY 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 REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK

WHEREAS, the Redevelopment Agency of the City of Moorpark ("Agency") is a redevelopment agency organized and existing under the California Community Redevelopment Law (Health & Safety Code § 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 of the City of Moorpark ("City Council" or "City," as applicable); and

WHEREAS, pursuant to the CRL, the voters of the City of Moorpark approved and adopted via Ordinance No. 110 a Redevelopment Plan ("Redevelopment Plan") for the Moorpark Redevelopment Project Area ("Project"), which Redevelopment Plan was amended by the voters via Ordinance No. 111 and amended by the City Council via Ordinance No. 369, and the Agency is vested with the responsibility for implementing and carrying out the Redevelopment Plan; and

WHEREAS, the Agency is currently in the process of carrying out the goals and objectives of each Redevelopment Plan by continuing to: eliminate blight; increase, improve, and preserve the supply of affordable housing in the community; stimulate and expand economic growth and employment opportunities by revitalizing properties and businesses within each Project; and alleviate deficiencies in public infrastructure; and

WHEREAS, in connection with approval and adoption of the State Budget for Fiscal Year 2011-12, the California Legislature has approved, and the Governor has signed (i) ABX1 26 (Stats. 2011, Chap. 5, "ABX1 26"), which immediately, and purportedly retroactively, suspends all otherwise legal redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011 (the "Dissolution Act"); and (ii) ABX1 27 (Stats. 2011, Chap. 6, "ABX1 27"), which allows communities to avoid the consequences of the Dissolution Act and continue their redevelopment agency if the community enacts an ordinance agreeing to comply with the alternative voluntary redevelopment program described in Section 2 of ABX1 27 adding Part 1.9 (commencing with section 34192) of Division 24 of the Health and Safety Code (the "Alternative Redevelopment Program"); and

WHEREAS, the immediate suspension of activities and dissolution of the Agency under the provisions of ABX1 26 would result in the immediate suspension of Agency efforts and programs to eliminate blight, provide affordable housing, provide economic assistance to businesses, and implement other programs which are assisting in the recovery of the City from the financial crisis and recession

currently affecting the City and the State of California and thereby result in severe and unwarranted social and economic hardship to City residents, workers and businesses; and

WHEREAS, because the City Council does not wish to immediately suspend activities of the Agency and wishes to continue to eliminate blight and promote economic development and affordable housing, the City Council has determined it is in the public interest of the City to take immediate action to participate in the ABX1 27 Alternative Redevelopment Program; and

WHEREAS, the Alternative Redevelopment Program requires the participating communities to remit specific annual payments to the county auditor-controller for allocation to school entities and special districts; and

WHEREAS, under the threat of dissolution pursuant to ABX1 26, and upon the contingencies and reservations set forth herein, the City shall participate in the Alternative Redevelopment Program and make the Fiscal Year 2011-2012 community remittance, which the California state Department of Finance has determined to be One Million Six Hundred Six Thousand Five Hundred Sixty Nine Dollars (\$1,606,569), as well as the subsequent annual community remittances as set forth in ABX1 27; 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, an action challenging the constitutionality of ABX1 26 and ABX1 27 was filed by the League of California Cities and the California Redevelopment Association on behalf of cities, counties and redevelopment agencies; and

WHEREAS, in connection with that action, on August 11, 2011, the Supreme Court of California issued an order staying the effectiveness of ABX1 27; and

WHEREAS, the order issued by the Supreme Court did not address the means by which a City would opt to participate in the Alternative Redevelopment Program if the order were to be dissolved at some point after the cut-off dates set forth in ABX1 27; and

WHEREAS, while the City currently intends to make the community remittances, they shall be made under protest and without prejudice to the City's right to recover such amounts and interest thereon, in the event that there is a final determination that ABX1 26 and ABX1 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 ABX1 26 and ABX1 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Alternative Redevelopment Program's payment obligation 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; and

WHEREAS, the City is the lead agency concerning this Ordinance pursuant to the California Environmental Quality Act (codified as Public Resources Code Section 21000 *et seq*) ("CEQA") and the State CEQA Guidelines; and

WHEREAS, City staff has determined that this Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15378(b)(4), because the community remittances authorized hereunder are a government funding mechanism and fiscal activity, and do not involve any commitment to any specific project that may result in a potentially significant environmental impact; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY ORDAIN AS FOLLOWS:

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

SECTION 2. Participation in the Alternative 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 ABX1 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 while the Supreme Court's order staying the effectiveness of ABX1 27 is in effect. City shall also not make such remittance in the event a court of competent jurisdiction determines that ABX1 26 and ABX1 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 made following dissolution of the Supreme Court's order staying the effectiveness of ABX1 27 but before a final determination in the matter giving rise to the stay 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 ABX1 26 and ABX1 27 are unconstitutional. If there is a final determination that ABX1 26 and ABX1 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 Ventura 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 ABX1 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. 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 that may result in a potentially significant environmental impact.

SECTION 8. Notice of Exemption. The City Council hereby authorizes and directs that a Notice of Exemption be filed with the County Clerk of the County of Ventura, California, in accordance with CEQA Guidelines.

SECTION 9. 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 City Hall, 799 Moorpark Avenue, Moorpark, California 93021. The custodian for these records is the City Clerk.

SECTION 10. 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 11. Effective Date. This Ordinance shall become effective either thirty (30) days from adoption of this Ordinance or on the date the Supreme Court of California issues an order or decision that has the effect of dissolving or mooted the stay of ABX1 27, whichever is later.

SECTION 12. Publication. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this 14th day of September, 2011.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk