

ATTACHMENT 3

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF SANTA BARBARA, CALIFORNIA,
DETERMINING THAT IT WILL 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 COUNTY OF SANTA BARBARA**

WHEREAS, on November 27, 1990 the Santa Barbara County Board of Supervisors (“County”) approved and adopted the Redevelopment Plan for the Isla Vista Redevelopment Project (“Redevelopment Plan”) covering certain properties within the unincorporated area of the county known as Isla Vista (the “Project Area”); and

WHEREAS, the Redevelopment Agency of the County of Santa Barbara (“Agency”) is engaged in activities to implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.); 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 create jobs and expand the local economy; and

WHEREAS, until the Redevelopment Plan expires in 2032, the Agency intends to implement a variety of redevelopment projects 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; and

WHEREAS, as part of the 2011-12 State budget, the California Legislature enacted and the Governor signed, companion bills ABX1 26 (“Dissolution Bill”) and ABX1 27 (“Continuation Bill”); and

WHEREAS, the Dissolution Bill prohibits agencies from taking numerous actions including entering into and modifying contracts, and additionally provides that redevelopment agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, the Continuation Bill 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 Community

Redevelopment Law, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code by October 1, 2011 and also allows a community to the extend the deadline for enacting such an ordinance to November 1, 2011 if it has adopted a nonbinding resolution of intent to enact such ordinance; and

WHEREAS, on September 6, 2011 the County adopted a nonbinding resolution of intent to enact an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

WHEREAS, an action challenging the constitutionality of ABX1 26 and ABX1 27 has been brought on behalf of cities and redevelopment agencies in the case of California Redevelopment Association et al v. Matosantos (S194861) (“Matosantos Case”) and the California Supreme Court has stayed portions of ABX1 26 and ABX1 27; and

WHEREAS, California Health and Safety Code Section 34193 et seq. which authorizes the County to enter into the “Alternative Voluntary Redevelopment Program” is subject to the stay that was imposed in the Matosantos Case by the California Supreme Court’s orders of August 11, 2011 and August 17, 2011; and

WHEREAS, if the California Supreme Court upholds the Dissolution Bill and/or the Continuation Bill in whole or in part, it is not clear how the California Supreme Court and/or the California Legislature will handle certain deadlines in the legislation that will already have passed if the California Supreme Court does not issue its decision until January 2012, which is the decision date that the California Supreme Court stated in its orders of August 11, 2011 and August 17, 2011; and

WHEREAS, the County reserves the right, regardless of any action it takes to comply with the Dissolution Bill or the Continuation Bill, to challenge the legality of the Dissolution Bill and/or the Continuation Bill, and to challenge the legality and the amount of any remittance payments it may make to the State under the Continuation Bill; 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 ABX1 26, and upon the contingencies and reservations set forth herein, the County agrees to make the Fiscal Year 2011-2012 community remittance to the State under ABX1 27 of approximately \$1.95 million as well as the subsequent annual community remittances; and

WHEREAS, while the County currently intends to make these community remittances, they shall be made under protest and without prejudice to the County’s right to recover such

amounts and interest thereon, to the extent there is a final determination that ABX1 26 and ABX1 27 are unconstitutional; 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 ABX1 27, the County 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 BE IT FOUND, DETERMINED AND RESOLVED AS FOLLOWS:

1. The Recitals set forth above are true and correct and incorporated herein by reference.
2. In accordance with Health and Safety Code Section 34193, and based on the Recitals set forth above, the Board of Supervisors of the County of Santa Barbara hereby determines that the County shall comply with Part 1.9 of Division 24 of the Health and Safety Code and shall make the community remittances set forth in Health and Safety Code section 34194 *et seq.*, except as set forth in Section 3, below.
3. The County shall not make any community remittance payments in the event a court of competent jurisdiction determines that either ABX1 26 and ABX1 27 is unconstitutional or otherwise invalid, unless and until such ruling is overturned or modified.
4. This Ordinance shall not effect or give rise to any waiver of rights or remedies the County may have, whether in law or in equity, to challenge the Dissolution Bill or the Continuation Bill. This Ordinance shall not be construed as the County's willing acceptance of, or concurrence with, either the Dissolution Bill or the Continuation Bill; nor does this Ordinance evidence any assertion or belief on the part of the County that those bills are constitutional or lawful.
5. The Board of Supervisors hereby authorizes and directs the County Executive Officer 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 County'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.
6. 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 Board of Supervisors hereby declares

that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

7. The Clerk of the Board 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 County of Santa Barbara, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Clerk of the Board in accordance with Government Code § 36933.

8. The Board of Supervisors finds, under Title 14 of the California Code of Regulations, Sections 15378(b)(4), and 15378(b)(5), 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 continuation of a governmental funding mechanism and programs and/or organizational or administrative activities that will not result in direct or indirect physical changes to the environment and does not involve any commitment to any specific project or program. The Board of Supervisors, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Barbara in accordance with CEQA Guidelines.

9. This Ordinance shall become effective upon the later of: 1) the expiration of 30 days from the date of its adoption (second reading), 2) the date the stay of Health and Safety Code Section 34193 in the Matosantos Case is lifted and 3) the date of a decision of the California Supreme Court in the Matosantos Case upholding both the Dissolution Bill and the Continuation Bill. If there is a final determination in the Matosantos Case that either the Dissolution Bill or the Continuation Bill are invalid, this Ordinance shall be deemed to be null and void and of no further force or effect.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara of the State of California, this ____ day of October 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNTY OF SANTA BARBARA
BOARD OF SUPERVISORS

By: _____
JONI GRAY
Chair, Board of Supervisors

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: _____

APPROVED AS TO LEGAL FORM:
DNNIS A. MARSHALL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy Auditor-Controller