

ATTACHMENT 5

REPAYMENT AGREEMENT BETWEEN THE COUNTY OF SANTA BARBARA AND THE REDEVELOPMENT AGENCY OF THE COUNTY OF SANTA BARBARA FOR THE COMMUNITY REMITTANCE PAYMENTS TO BE MADE BY THE COUNTY TO THE STATE OF CALIFORNIA PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 34194.2

This Agreement is entered into this 4th day of October 2011, by and between the Redevelopment Agency of the County of Santa Barbara, a public body corporate and politic, hereinafter referred to as “Redevelopment Agency” and the County of Santa Barbara, a subdivision of the State of California, hereinafter referred to as “County”.

WHEREAS, on November 27, 1990 the Santa Barbara County Board of Supervisors 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 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 Redevelopment 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 bill, the California Legislature enacted and the Governor signed, companion bills ABX1 26 (“Dissolution Bill”) and ABX1 27 (“Continuation Bill”), requiring among other things that each redevelopment agency be dissolved unless the community that created it enters into the “Alternative Voluntary Redevelopment Program” by enacting an ordinance committing it to making certain remittance payments to the State of California pursuant to Health and Safety Code Sections 34192 et seq. (“Remittance Payments”); 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 (“Continuation Ordinance”); and

WHEREAS, on September 6, 2011 the County of Santa Barbara Board of Supervisors adopted a nonbinding resolution of intent to enact a Continuation Ordinance; and

WHEREAS, California Health and Safety Code Section 34194.2 authorizes the County to enter into an agreement with the Redevelopment Agency whereby the Agency will transfer a portion of its tax increment to the County, in an amount not to exceed the annual remittances required under the Continuation Bill for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals; 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 34194.2 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, 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 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, while the County currently intends to make Remittance Payments, 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 AB1X 26 and/or AB1X 27 are unconstitutional; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the obligation to make Remittance Payments in the Alternative Voluntary Redevelopment Program, the County shall not be obligated to make any Remittance Payments for the duration of such injunction, restraint, or stay; and

WHEREAS, given the lack of other available financial resources, the only feasible source of funding Remittance Payments required under the Alternative Voluntary Redevelopment Program is Redevelopment Agency revenues; and

WHEREAS, continuation of Redevelopment Agency activity will benefit the Project Area and the County by allowing the Redevelopment Agency to continue to undertake projects and programs 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.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. For each fiscal year in which a Remittance Payment is made by the County to the State, the Agency shall fully reimburse the County for the full amount of such Remittance Payment, including an initial payment of approximately \$1,953,000 in fiscal year 2011/2012 and ongoing annual payment each year thereafter.
2. Notwithstanding the above, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the obligation to make Remittance Payments in the Alternative Voluntary Redevelopment Program, the County shall not be obligated to make any Remittance Payments for the duration of such injunction, restraint, or stay.
3. In no event shall reimbursements made pursuant to this Agreement exceed the actual amount paid by the County to the State pursuant to Health and Safety Code Sections 34192 et seq.
4. This Agreement is expressly made conditional upon all of following: 1) adoption (second reading) by the Board of Supervisors of the County of an ordinance to participate in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code, 2) the lifting of the stay of Health and Safety Code Section 34193 in the Matosantos Case, and 3) a decision 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 Agreement shall be deemed to be null and void and of no further force or effect.
5. As limited by Health and Safety Code Sec. 34194.2, all of the funds paid by the Redevelopment Agency to the County under this Agreement shall be used to finance activities within the redevelopment area that are related to accomplishing the Redevelopment Agency project goals.
6. There are no third party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Agreement by their officers thereunto duly authorized on this _____ day of October, 2011.

AGENCY:

COUNTY OF SANTA BARBARA
REDEVELOPMENT AGENCY
A public body, corporate and politic

By: _____
JONI GRAY
Chair, Board of Directors

ATTEST:
CHANDRA L. WALLAR

By: _____
Agency Secretary

APPROVED AS TO FORM:
DENNIS A. MARSHALL,
AGENCY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AGENCY TREASURER

By: _____
Deputy County Counsel

By: _____
Deputy Auditor Controller

COUNTY:

COUNTY OF SANTA BARBARA
BOARD OF SUPERVISORS
A Subdivision of the State of California

By: _____
JONI GRAY
Chair, Board of Supervisors

ATTEST:
CHANDRA L. WALLAR

By: _____
Deputy

APPROVED AS TO LEGAL FORM:
DENNIS A. MARSHALL,
AGENCY COUNSEL

By: _____
Deputy County Counsel

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

By: _____
Deputy Auditor Controller