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# **KERMAN REDEVELOPMENT AGENCY**

# **AGENDA**

**August 17, 2011– Regular Meeting  
6:30 PM**

**Kerman City Hall  
850 S. Madera Avenue  
Kerman, CA 93630**

**Agency Members: Chair Gary Yep, Richard Stockwell, Raj Dhaliwal, Jack Sidhu, Doug Wilcox**

**City meetings are intended to be accessible to all persons. Please let us know if you require any accommodation to allow you to access and participate in this meeting. For assistance, please call (559) 846-9380 two days prior to the meeting.**

**Materials related to an item on this agenda that are public documents and are submitted after distribution and posting of the agenda are available for public inspection in the City Clerk's office at 850 S. Madera Avenue, Kerman, during normal business hours. Documents that are public documents provided by others during a meeting will be available at the same location during business hours after the meeting.**

**WELCOME – Chairperson Gary K. Yep**

**CALL TO ORDER**

**ROLL CALL**

**A. AGENDA APPROVAL**

**B. MINUTES – Last Regular Meeting**  
Minutes 7/20/11

**C. REQUEST TO ADDRESS AGENCY**

**This portion of the meeting is reserved for members of the public to address the Redevelopment Agency on items of interest that are not on the Agenda and are within the subject matter jurisdiction of the Redevelopment Agency. Speakers shall be limited to three minutes. It is requested that no comments be made during this period on items on the Agenda. Members of the public wishing to address the Redevelopment Agency on items on the Agenda should notify the Chairperson when that Agenda item is called, and the Chairperson will recognize your discussion at that time. It should be noted that the Redevelopment Agency is prohibited by law from taking any action on matters discussed that are not on the Agenda. Speakers are asked to please use the microphone, and provide their name and address.**

**D. PUBLIC HEARINGS**

**E. ORDER OF BUSINESS**

**1. Agency Treasurer's Report:**

Warrant Nos. 1294 - 1303 \$168,145.72

Excepting: Kerwest #1297 \$52.50

**2. Resolution: Adopt Resolution reducing the Kerman Redevelopment Agency's Allocation to the Low and Moderate Income Housing Fund for FY 2011-12 and Authorizing the Execution of the Remittance Agreement Between the Kerman Redevelopment Agency and the City of Kerman to Provide Funding for the Required Annual Remittance Payment to the State Under the Alternative Redevelopment Program. [LP]**

*As discussed in greater detail in the attached staff report, the City Council per a scheduled Public Hearing and under separate action tonight (Aug, 17, 2011) intends to adopt an Opt-In Ordinance authorizing the City's participation in the Alternative Redevelopment Program that was signed into law by the Governor as part of the State Budget for FY 2011-2012. The City's participation in the Alternative Redevelopment Program avoids dissolution of the redevelopment agency by agreeing to make a remittance payment to the State in the amount of \$223,892 for FY 2011-12 and approximately \$58,000 annually thereafter. The remittance is due in two equal installments on January 15, 2012 and May 15, 2012 of each year.*

*The remittance payment will be made using funds from the Redevelopment General Fund and one-time use of Low and Moderate Income (LMI) Housing Funds. In order to do so, the Kerman Redevelopment Agency must make a finding that there are insufficient other moneys from which to make the opt-in payment to the State. The Kerman Redevelopment Agency must also approve a Remittance Agreement with the City of Kerman to transfer redevelopment tax increment funds to the City for purposes of making the remittance payment. The City Council approved the Remittance Agreement on August 3, 2011.*

**Recommendation:** Staff recommends that the Kerman Redevelopment Agency adopts the attached Resolution reducing its allocation to the Low and Moderate Income Housing Fund for FY 2011-12 and authorizes the Executive Director to execute the attached Remittance Agreement between the Kerman Redevelopment Agency and the City of Kerman.

**F. WRITTEN COMMUNICATIONS**

No Written Communications

**G. REQUEST FOR CLOSED SESSION**

No Closed Session Items

**H. ADJOURNMENT**

# KERMAN REDEVELOPMENT AGENCY

# MINUTES

July 20, 2011– Regular Meeting  
6:30 PM

Kerman City Hall  
850 S. Madera Avenue  
Kerman, CA 93630

Agency Members: Chair Gary Yep, Richard Stockwell, Raj Dhaliwal, Jack Sidhu, Doug Wilcox

**Present:** Chairperson Yep (GY), Board Members Dhaliwal (RD), Stockwell (RS), Wilcox (DW)

**Absent:** Sidhu (JS)

**Also Present:** City Manager, City Attorney, City Engineer, Planning Director,  
Community Services Director, Finance Director, Public Works Director,

Voting Key:  
Yes, No,  
Absent, or  
Abstain

**WELCOME** – Chairperson Gary K. Yep

## CALL TO ORDER

7:40 p.m.

## ROLL CALL

All present  
except JS

### A. AGENDA APPROVAL

RS/DW (4-1-0)

### B. MINUTES – Last Regular Meeting

Minutes 6-15-11

DW/RD (4-1-0)

### C. REQUEST TO ADDRESS AGENCY

### D. PUBLIC HEARINGS

Open PH  
Close PH

### 1. Public Hearing and Resolution Approving the Kerman Redevelopment Agency 2011/2012 Budgets and 2010/2011 Amended 2010/2011 Budgets [TLP]

Approved  
RS/RD (4-1-0)

**Recommendation:** Board to open the public hearing and approve the Resolution Approving the Kerman Redevelopment Agency 2011/2012 Budgets and 2010/2011 Amended 2010/2011 Budgets.

### E. ORDER OF BUSINESS

#### 1. Agency Treasurer's Report:

Excepting Warrant #1280 Kerwest

Approve except  
1280 DW/RS  
(4-1-0)  
Approve warrant  
1280 RS/RD (3-  
1-1) JS/DW

### F. WRITTEN COMMUNICATIONS

No written  
communication

### G. REQUEST FOR CLOSED SESSION

No closed  
session items

### H. ADJOURNMENT

8:03 p.m.

Run date: 08/10/2011 @ 10:51  
 Bus date: 08/10/2011

City of Kerman  
 Check - Complete Detail

OCCKHST.L02 Page 1

CVCB RDA

Check-Run	Seq#	Date	Vendor / Name / Obligat'n	Description	Net amount	Invoice number
1294- 1749	1	7/25/2011	3143 CITY OF KERMAN			
	1		45038	DIF FEES OWED ON KEARNEY PALMS	150,846.99	2010/2011
1294- 1749	1	7/25/2011	Logged	*** Total ***	150,846.99	
1295- 1749	2	7/25/2011	7065 G K SERVICES, INC			
	2		45039	UNIFORMS JUNE 2011	24.97	JUNE 11/RDA
1295- 1749	2	7/25/2011	Logged	*** Total ***	24.97	
1296- 1752	1	7/29/2011	3143 CITY OF KERMAN			
	1		45107	REIMBURSE PAYROLL EXP 7/15/11	7,603.94	P/D 7/15/11
1296- 1752	1	7/29/2011	Logged	*** Total ***	7,603.94	
1297- 1752	2	7/29/2011	11033 KERWEST NEWSPAPERS			
	2		45106	LEGAL NOTICE PH-RDA/PFA	52.50	26082
1297- 1752	2	7/29/2011	Logged	*** Total ***	52.50	
1298- 1755	1	8/04/2011	3219 CALIFORNIA CONSULTING, LLC			
	1		45182	MONTHLY RETAINER/COSTS AUG 11	2,560.53	AUG 2011
1298- 1755	1	8/04/2011	Logged	*** Total ***	2,560.53	
1299- 1755	2	8/04/2011	3143 CITY OF KERMAN			
	2		45183	REIMBURSE PAYROLL EXPENSE	6,548.04	P/D 7/29/11
1299- 1755	2	8/04/2011	Logged	*** Total ***	6,548.04	
1300- 1755	3	8/04/2011	19063 SLUMBERGER LUMBER			
	3		45180	RITE AID FENCE PROJECT	82.72	C84936
	3		45181	RITE AID FENCE PROJECT	86.12	B119946
1300- 1755	3	8/04/2011	Logged	*** Total ***	168.84	
1301- 1755	4	8/04/2011	24002 XEROX CORPORATION			
	4		45179	LEASE/COPIES PL BLDG JUNE 11	99.91	056052905 RDA
1301- 1755	4	8/04/2011	Logged	*** Total ***	99.91	
1302- 1757	1	7/25/2011	10028 HENRY, LOGOLUSO, & BLUM			
	1		45253	LEGAL SERVICES RDA JULY 11	240.00	18691
1302- 1757	1	7/25/2011	Voided	*** Total ***	240.00	
1303- 1758	1	8/10/2011	10028 HENRY, LOGOLUSO, & BLUM			
	1		45253	LEGAL SERVICES RDA JULY 11	240.00	18691
1303- 1758	1	8/10/2011	Logged	*** Total ***	240.00	

\*\* Total MFP discount \*\* .00  
 \*\* Total MFP amount \*\* .00  
 \*\* Total check discount \*\* .00  
 \*\* Total check amount \*\* 168,145.72  
 \*\* Total void discount \*\* .00  
 \*\* Total void amount \*\* 240.00



# Kerman Redevelopment Agency

*"Community Comes First"*

CHAIR  
Gary K. Yep

VICE CHAIR  
Doug Wilcox

BOARD MEMBER  
Raj Dhallwal

BOARD MEMBER  
Jack Sidhu

BOARD MEMBER  
Richard Stockwell

STAFF REPORT  
REDEVELOPMENT AGENCY MEETING  
August 17, 2011

To: RDA Board of Directors  
From: Luis Patlan, Director of Planning & Development  
Subject: **Voluntary Redevelopment Program Act (ABx1 27)**

## RECOMMENDATION

Staff recommends that the RDA Board:

1. Adopt a resolution reducing the Fiscal Year 2011-2012 Low and Moderate Income Housing Fund allocation and authorize the use of tax increment funds for the Voluntary Redevelopment Program; and
2. Approve Remittance Agreement between the Kerman Redevelopment Agency and the City of Kerman to provide funding for the required remittance payment to the State.

## BACKGROUND

On June 29, 2011, the Governor signed into law ABX1 26 ("the Dissolution Act") and ABX1 27 (the "Voluntary Program Act") as part of the State Budget for Fiscal Year 2011-12. In summary, the Dissolution Act immediately suspends redevelopment agencies' operations and effectively dissolves redevelopment agencies statewide effective October 1, 2011. The Voluntary Program Act allows cities to avoid Dissolution or elimination of its RDA by agreeing to make voluntary payments (referred to as "Remittances") to the State (via the County Auditor-Controller). To avoid Dissolution the City Council must enact an ordinance in which it agrees to comply with the Voluntary Program Act by making the Remittance payments to the State, which is due in equal installment each fiscal year by January 15 and May 15.

## DISCUSSION

The passage of ABx1 26 and ABx1 27 is the result of intense debate in the state legislature over the future of redevelopment agencies. Facing an unprecedented fiscal crisis, the Governor proposed in January 2011 to eliminate redevelopment agencies and to reprogram \$1.7 billion in property tax revenues in FY 2011-12 that would otherwise be available to redevelopment agencies (referred to as "tax increment") so the State can make its obligatory payments to schools.

Clearly, the draconian proposal to eliminate redevelopment agencies was a reaction to the passage in November 2010 of Proposition 22, a state constitutional provision prohibiting the state legislature from redirecting tax increment and other redevelopment resources to schools, state agencies, and other purposes

besides redevelopment activities. In previous years, the state legislature had required redevelopment agencies to transfer some of their resources to local Educational Revenue Augmentation Funds (ERAF payments) as a means of addressing shortfalls in funding for education. Proposition 22 prohibited these types of payments in the future.

The Governor's original proposal and the final legislative outcome are premised on the state's authority to create and terminate redevelopment agencies. By first dissolving redevelopment agencies and then re-establishing them if local authorities commit to make additional contributions to schools and other taxing entities, the new state legislation attempts to avoid the prohibitions of Proposition 22.

#### The Dissolution Law

Under ABx1 26, redevelopment agencies shall not "incur new or expand existing monetary or legal obligations" except as the Dissolution Law provides under very narrow circumstances. The Dissolution Law explicitly prohibits a large number of new redevelopment activities including, but not limited to, the following: issuing or selling bonds; taking out or accepting new loans; pledging or encumber for any purpose any of its revenues or assets; entering into new contracts; amending or modifying existing agreements; acquiring real property; transferring or assigning assets and funds; approving any program, project, or expenditure where approval is not required by law.

#### Opt-In Transfer Law

The "Voluntary Alternative Redevelopment Program" allows a local jurisdiction to continue, or to re-establish, a redevelopment agency if local authorities agree to "opt-in" by paying their share of \$1.7 billion in property tax revenue to the state this year and \$400 million next year (referred to as "Remittance" payments). The California Redevelopment Association estimates Kerman's Remittance payment for FY 2011-12 at approximately \$230,000 and in FY 2012-13 at approximately \$58,000. Thereafter, the annual transfer payment amount will be approximately \$58,000 but may increase depending on the amount of tax increment collected by the agency. The Voluntary Redevelopment Program Act requires the State Department of Finance to notify local authorities of the exact amount for this fiscal year by August 1, 2011.

Under separate action tonight, the City Council will consider adoption of an Opt-In Ordinance committing to make one-half of the annual remittance by January 15 and the other one-half by May 15 of each year. The Opt-In Ordinance, if enacted by the City Council, exempts the Agency from the immediate suspension of powers it would otherwise be subject to under ABX1 26. Under the Voluntary Redevelopment Program, the City may use redevelopment agency tax increment to make the opt-in payment so long as the city and the RDA enter into an agreement whereby the agency will transfer a portion of its tax increment to the city in the amount of the remittance required for that year.

#### Remittance Agreement

Along with the resolution, staff has prepared a Remittance Agreement between the City of Kerman and the Kerman Redevelopment Agency. The City Council approved the Remittance Agreement on August 3, 2011. The Remittance Agreement provides the vehicle by which the City would receive Agency funds to make the opt-in payments to the State.

## Use of Low and Moderate Income Housing (LMI) Funds

The law does allow the RDA to use Low and Moderate Income Housing (LMI) Funds to make the remittance for FY 2011-12 only after a finding is made. The attached resolution presented for Agency Board consideration allows a one-time withholding of the normally required 20% set aside to the LMI Fund. The total amount of the normal LMI set-aside payment is estimated at \$140,585 in Fiscal Year 2011-2012. Since existing housing funds cannot be used to make the opt-in payment, the proposed resolution authorizes staff to withhold an amount up to 100% of the normal set-aside payment for Fiscal Year 2011-2012. The Agency will use additional unencumbered tax increment proceeds to fund the remaining portion of the initial payment and subsequent payments.

## FISCAL IMPACT

Should the City Council decide to make the \$223,892 Opt-In Payment, staff proposes it will be funded between the RDA General Fund and RDA LMI Fund, as follows:

• RDA General Fund	\$118,050
• RDA LMI Fund	<u>\$105,842</u>
Total Remittance	\$223,892

The opt-in payment above is an estimate only. The State Department of Finance is required to notify cities of the actual payment by August 1, 2011. Even with the opt-in payment, the Agency will be able to fund all of its proposed redevelopment programming this fiscal year while avoiding elimination.

## OUTSTANDING ISSUES

On July 18, 2011, the California Redevelopment Association (CRA), League of California Cities (League), City of San Jose and Union City filed a lawsuit in the State Supreme Court challenging the constitutionality of the bills. The central claim is that the new laws violate Proposition 22, a voter-approved constitutional amendment that prevents the state from taking money from local government. The plaintiffs asked the court to rule on the suite by August 15, 2011. By enactment of the Ordinance, Resolution and Remittance Agreement, the City and/or Agency does not intend to waive any constitutional and/or legal rights and, therefore, reserves all of its rights under the Laws to challenge the validity of any or all provisions of AB 26/AB 27 in any administrative or judicial proceeding and/or repeal the Ordinance, Resolution and Remittance Agreement without prejudice to the City's right to recover any amounts remitted under the law.

## SUMMARY/CONCLUSION

Once the City enacts the appropriate Opt-In Ordinance, the Kerman RDA will no longer be subject to the provisions of the Dissolution Act and may immediately recommence normal redevelopment activities under the California Redevelopment Law. Staff is asking that the RDA Board take action on the Resolution and Remittance Agreement tonight. The City Council approved the Remittance Agreement on August 3, 2011 and will conduct a public hearing tonight for second reading and adoption of the Op-In Ordinance.

## **ACTIONS FOLLOWING APPROVAL**

Upon adoption of the Opt-In Ordinance by the City Council, staff will forward a letter notifying the Department of Finance, the Controller and the County Auditor-Controller of its agreement to comply with the Voluntary Redevelopment Program.

### **Attachments:**

- A. Proposed Resolution w/Exhibit A – Remittance Agreement

Attachment 'A'

RESOLUTION NO. 2011-A\_\_\_\_\_

**A RESOLUTION OF THE KERMAN REDEVELOPMENT AGENCY BOARD AUTHORIZING THE EXECUTION OF A REMITTANCE AGREEMENT, REDUCING ITS ALLOCATION TO THE LOW AND MODERATE INCOME HOUSING FUND FOR THE 2011-2012 FISCAL YEAR AND MAKING CERTAIN FINDINGS AND DETERMINATIONS.**

THE KERMAN REDEVELOPMENT AGENCY BOARD HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. Health & Safety Code Sections 33334.2 and 33334.3 of California's Community Redevelopment Law [Health & Safety Code §§33000, et seq.] ("CRL") require the Kerman Redevelopment Agency ("Agency") to use 20 percent of taxes allocated to the Agency pursuant to Section 33670 of the CRL ("Tax Increment") for the purpose of increasing, improving, and preserving the community's supply of low and moderate income housing and to hold such funds in a separate Low and Moderate Income Housing Fund until used for such purposes ("Low and Moderate Income Housing Fund").

Section 2. Assembly Bill X1 26 and Assembly Bill X1 27 (collectively, "AB 26./AB 27") were passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.

Section 3. AB 27 is to be codified as Part 1.9 of Division 24 of the California Health and Safety Code ("Part 1.9").

Section 4. AB 26/AB 27 establish a voluntary alternative redevelopment program whereby the Agency would be authorized to continue to exist upon the enactment of an ordinance by the City of Kerman ("City") to comply with the provisions of Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance").

Section 5. AB 26/AB 27 authorize the Agency to enter into an agreement with the City whereby the Agency would transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor- Controller ("Remittance Agreement").

Section 6. AB 26/AB 27 authorize the Agency to reduce its allocation of Tax Increment to the Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year if the City complies with the provisions of Part 1.9 and the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligations under the Remittance Agreement.

Section 7. The Agency Board has reviewed and duly considered the Staff Report, documents and other written evidence presented at its August 17, 2011 meeting and hereby determines that it will be in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements, to reduce its allocation of Tax Increment to the Low and Moderate Income Housing Fund for the 2011/2012 Fiscal Year in an amount equal to 100% of the amount that would otherwise be placed in the Low and Moderate Income Housing Fund {currently estimated to be \$140,585 ("Allocation Reduction")}

Section 8. All other legal prerequisites to the adoption of this Resolution have occurred.

Section 9. The Agency Board has received and heard all oral and written objections pertaining to this matter, and all such oral and written objections are hereby overruled.

Section 10. The Agency Board hereby finds and determines that the foregoing recitals are true and correct.

Section 11. Based upon evidence in the record, the Agency Board finds that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligations under the Remittance Agreement.

Section 12. The Agency Board finds and determines that it is necessary to implement the Allocation Reduction for the 2011-2012 Fiscal Year.

Section 13. The Agency Executive Director, or designee, is hereby authorized to take such actions as are necessary and appropriate to carry out and implement the Allocation Reduction for the 2011-2012 Fiscal Year upon the City's enactment of the Opt-In Ordinance and enter into, and perform any agreements to make the remittance payments (including, but not limited to, to the Remittance Agreement in substantially the form attached hereto as Exhibit A).

This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Gary K. Yep, MAYOR  
City of Kerman

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Marcia Reyes, City Clerk

\_\_\_\_\_  
Mark Blum, City Attorney

Exhibit 'A'

**REMITTANCE AGREEMENT  
PURSUANT TO  
CALIFORNIA HEALTH AND SAFETY CODE SECTION 34194.2**

**THIS REMITTANCE AGREEMENT** (this "**Agreement**") is entered into this 11<sup>th</sup> day of July, 2011, by and between the CITY OF KERMAN, a municipal corporation (the "**City**") and the KERMAN REDEVELOPMENT AGENCY, a public body, corporate and politic (the "**Agency**"), with reference to the following facts:

A. Assembly Bill No. X1 26 and Assembly Bill No. X1 27 (collectively, "**AB 26/AB 27**") were passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.

B. AB 27 will be codified as Part 1.9 of Division 24 of the California Health and Safety Code, commencing with Section 34192 ("**Part 1.9**").

C. AB 26 /AB 27 establish a voluntary alternative redevelopment program whereby the City may choose to continue redevelopment pursuant to Part 1.9, upon the enactment of an ordinance by the City to comply with the provisions of Part 1.9 and make certain remittances described in Health and Safety Code Section 34194 to the County Auditor-Controller.

D. The City Council of the City of Kerman (the "**City Council**") has enacted or, concurrently with this Agreement is enacting,, an ordinance to comply with Part 1.9 (the "**Opt-In Ordinance**"); and the effective date of this Agreement shall be contingent upon the enactment of the Opt-In Ordinance.

E. Pursuant to the Opt-In Ordinance, the City Council has committed to comply with and make the remittances required by Part 1.9 and authorize the continuation of the Agency pursuant to AB 26/AB 27.

F. Pursuant to Section 34194.1, in making remittances to the County Auditor- Controller pursuant to Section 34194 or 34194.5, the City may use any available funds not otherwise obligated for other uses.

G. Pursuant to Section 34194.2, the City may enter into an agreement with the Agency, whereby the Agency will transfer a portion of its tax increment to the City, in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9, for the purpose of financing activities within the Redevelopment Project Area that are related to accomplishing the Agency project goals.

H. The purpose of this Agreement is to provide for the transfer of funds by the Agency to the City in an amount sufficient for the City to make the remittances required by Part 1.9 with net available tax increment in this current fiscal year 2011-2012 and future fiscal years, if such payments are required.

I. For purposes of this Agreement, the term "Net Available Tax Increment" is defined as any tax increment funds allocated to the Agency, net of existing debt service payments and existing third-party contractual obligations, not including any funds on deposit in the Agency's Low and Moderate Income Housing Fund, and also not including any portion of tax increment funds to be allocated to the Low and Moderate Income Housing Fund pursuant to Health and Safety Code Section 33334.2, 33334.4 and 33334.6 for the 2011/2012 fiscal year only, to the extent the Agency makes a finding that there are

insufficient other moneys to meet its debt and other obligations, current priority program needs, or its obligation to transfer funds to the City under Section 34194.2 as provided in this Agreement.

J. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the Redevelopment Plan for each of the Agency's Redevelopment Project Areas.

**NOW, THEREFORE**, the parties hereto do mutually agree as follows:

**I. INTRODUCTORY PROVISIONS**

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

**II. OBLIGATIONS OF THE PARTIES**

1. The Agency shall transfer to the City in a timely manner Net Tax Increment or other funds in an amount sufficient for the City to make the remittance payments required by Part 1.9. The amounts to be transferred to the City shall be sufficient for the City to pay the remittance amount determined by the State Director of Finance pursuant to Part 1.9., subject to the City's right to appeal the amount of remittance to the Director pursuant to Part 1.9.

2. Subject to receipt of sufficient Net Tax Increment or other funds from the Agency, the city shall timely remit to the County Auditor-Controller the payments required by Part 1.9. as provided in the Opt-In Ordinance. The City's obligation to make such remittances shall be a special limited obligation of the City payable solely from Net Available Tax Increment or any other funds made available to the City by the Agency, including but not limited to amounts previously or subsequently pledged to the City for payment of Agency expenses that remain unencumbered. Nothing contained in this Agreement shall be deemed to be a pledge of the City's general fund revenues or other assets to make the remittance payments contemplated by part 1.9, it being understood that any remittance payments shall be funded solely from Agency funds and/or assets.

3. The obligations of the Agency under this Agreement shall be payable out of Net Available Tax Increment, as defined above recitals and/or as defined or provided for in any applicable constitutional provision, statute or other provision of law now existing or adopted in the future, levied by or for the benefit of taxing agencies in the Agency's Redevelopment Project Area(s), and allocated to the agency and/or any lawful successor entity of the Agency and/or any entity established by law to carry out the redevelopment plan for the Redevelopment Project Area(s) and/or expend tax increment or pay indebtedness of the Agency to be repaid with tax increment pursuant to health and Safety Code 33670 or any applicable constitutional provision, statute or other provision of law now existing or adopted in the future. In the event that additional funds are required in order to make the Agency payments to the City required by this Agreement, the Agency shall make such payments from income received by the Agency from its projects and programs or any other additional funds available to it.

### III. LIABILITIES AND INDEMNIFICATION

In contemplation of the provisions of California Government Code Section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code Sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code Section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code Section 895.2.

### IV. ENTIRE AGREEMENT; WAIVERS; AND AMENDMENTS

1. This Agreement shall be executed in duplicate originals, each of which is deemed to be an original. This Agreement consists of five (5) pages which constitute the entire understanding and agreement of the parties.

2. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter of this Agreement.

3. This Agreement is intended solely for the benefit of the City and the Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Agency, there shall be no third party beneficiaries under this Agreement.

4. Any waiver or amendment of the provisions of this Agreement must be in writing and signed by the authorized representatives of the parties.

### V. SEVERABILITY

If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

### VI. BINDING ON SUCCESSORS

This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law. This Agreement shall survive any full or partial merger of the City and the Agency and shall remain in effect and be fully enforceable according to its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF KERMAN

By: \_\_\_\_\_  
Gary K. Yep, Mayor

Attest:

By: \_\_\_\_\_  
Marci Reyes, City Clerk

Approved as to form:  
HENRY, LOGOLUSO AND BLUM

By: \_\_\_\_\_  
Mark Blum, City Attorney

KERMAN REDEVELOPMENT AGENCY

By: \_\_\_\_\_  
Gary K. Yep, Chair

Attest:

By: \_\_\_\_\_  
Marci Reyes, Agency Secretary

Approved as to form:  
HENRY, LOGOLUSO AND BLUM

By: \_\_\_\_\_  
Mark Blum, Agency Counsel