ORDINANCE NO. 11-03

AN ORDINANCE OF THE CITY OF RIDGECREST ELECTING TO COMPLY WITH AND PARTICIPATE IN THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM CONTAINED IN PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the Ridgecrest Redevelopment Agency ("Agency") is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 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 ("City Council") of the City of Ridgecrest ("City"); and

WHEREAS, the Redevelopment Plan for a redevelopment project known and designated as the "Ridgecrest Redevelopment Project" has been adopted and approved by Ordinance No. 86 37 of the City of Ridgecrest on November 16, 1986, and amended by Ordinance No. 91 13 adopted on April 17, 1991 and amended by Ordinance No. 95-04 adopted on March 15, 1995 and all requirements of law for and precedent to the adoption and approval of the Redevelopment Plan, as amended, have been duly complied with; 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 generate employment opportunities within the community; and

WHEREAS, over the next few years, the Agency hopes to implement a variety of redevelopment projects and programs 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, to name a few; and

WHEREAS, Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the CRL by ABX1 26 and ABX1 27, which measures purport to become effective immediately. ABX1 26 and ABX1 27, which are trailer bills to the 2011-12 budget bills, were approved by both houses of the Legislature on June 15, 2011 and signed by the Governor on June 28, 2011; and

WHEREAS, Part 1.85 of the CRL ("Part 1.85") provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides that, thereafter, a successor agency to administer the enforceable obligations of the Agency and otherwise wind up the Agency's affairs, all subject to the review and approval by an oversight committee; and

WHEREAS, Part 1.8 of the CRL ("Part 1.8") provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution to certain "enforceable obligations" and to actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8; and

WHEREAS, the dissolution of the Agency would be detrimental to the health, safety, and economic well-being of the residents of the City and cause irreparable harm to the community, because, among other reasons, the redevelopment activities and projects made possible, implemented, and funded by the Agency are highly significant and of enduring benefit to the community and the City, and are a critical component of its future; and

WHEREAS, Part 1.9 of the CRL ("Part 1.9") provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Alternative Voluntary Redevelopment Program established in Part 1.9 ("Program"); and

WHEREAS, as a condition of the Agency's continued existence and operation of its redevelopment agency, the City is required to make certain annual remittances to the county auditor-controller pursuant to Chapter 3 of Part 1.9, beginning with a larger upfront remittance for the 2011-2012 fiscal year ("First Remittance"), to be paid in two equal installments on January 15, 2012 and May 15, 2012; and

WHEREAS, the City will have sufficient moneys and revenues to fund an amount equal to the City's payment of the First Remittance and expects to have sufficient moneys and revenues to fund the subsequent annual remittances required by Part 1.9; and

WHEREAS, the City's needs are such that it can commit to spend the funds received from the Agency pursuant to the Agreement to Transfer Tax Increment (defined below) to finance activities within the Redevelopment Project that are related to accomplishing the goals of the Redevelopment Project, including but not limited to attraction and retention of a wide range of businesses, rehabilitation of deteriorated and obsolete structures, development of housing, improvement of infrastructure and public facilities, crime reduction, and blight elimination; and

WHEREAS, the City and Agency intend to execute an agreement pursuant to CRL Section 34194.2, whereby the Agency shall make an initial transfer of a portion of its tax increment to the City in an amount equal the First Remittance, and thereafter to transfer amounts of tax increment equal to any subsequent remittance which the City is required to make to the county auditor-controller pursuant to the City's participation in the Program ("Agreement to Transfer Tax Increment"); and

WHEREAS, the City is aware that the validity, passage, and applicability of ABX1 26 and ABX1 27 may become the subject of a judicial challenge; and

WHEREAS, the City, by the adoption of this Ordinance, does not represent, disclaim, or take any position whatsoever on the issue of the validity of ABX1 26 or ABX1 27, but rather the City seeks to comply with the Constitution and laws of the State of California, including Part 1.9, in order to preserve the ability of the Agency to continue to operate and thereby benefit the community; 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, while the City currently intends to make these community remittances, they shall be made under protest and without prejudice to the City'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, 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 Voluntary 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 has duly considered all other related matters and has determined that the City's participation in the Program is in the best interests of the City, and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

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

1. The foregoing recitals are true and correct.

2. The City hereby finds that (i) the dissolution of the Agency would be detrimental and cause irreparable harm to the community and to the health, safety, and economic wellbeing of the citizens of the City, and (ii) the types of activities and projects made possible, implemented, and funded by the Agency are highly significant and of enduring benefit to the community and the City, and are a critical component of its future; and

3. The City hereby commits to spend those funds received under the Agreement to Transfer Tax Increment or otherwise pursuant to CRL Section 34194.2 to finance activities within the Redevelopment Project that are related to accomplishing the goals of the Redevelopment Project; and

4. The City hereby ordains that the City shall comply with the Constitution and the laws of the State of California, including Part 1.9, including the making of the remittances referred to in CRL Section 34194(c) at the times and in the manner described in Part 1.9. This ordinance is that ordinance referred to in CRL Section 34193 and shall be interpreted and applied in all respects so as to comply with Part 1.9, to the fullest extent permitted by law.

5. The City Manager is hereby authorized and directed to take action and execute any documents necessary to implement this Ordinance, including, but not limited to notifying, on or before November 1, 2011, the county auditor-controller, the Controller of the State, and the State Department of Finance that the City agrees to comply with the provisions of Part 1.9 as provided under Section 34193, such notice to be in accordance with CRL Section 34193.1.

6. The City's remittances to the county auditor-controller made pursuant to Part 1.9 may be paid from any legally available funds of the City not otherwise obligated for other uses in accordance with Section 34194.1. Nothing herein is intended or shall be interpreted to require any payments or impose any financial or other obligation of the City other than in accordance with the Constitution and laws of the State of California, including Part 1.9. Except as set forth in Section 7, 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.

7. The City shall not make any community remittance in the event a court of competent jurisdiction either grants a stay on the enforcement of ABX1 26 and ABX1 27 or 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 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.

8. This Ordinance shall be effective thirty (30) days from and after the date of the final passage and adoption hereof.

PASSED, APPROVED, AND ADOPTED this 17th day of August, 2011.

Ronald H. Carter, Mayor, City of Ridgecrest

ATTEST:

Rachel J. Ford, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF KERN) ss
CITY OF RIDGECREST)

I, Rachel Ford, City Clerk of the City of Ridgecrest, do hereby certify that the foregoing Ordinance No.11-03 was duly passed and adopted at a regular meeting of the City Council of the City of Ridgecrest held on the 17th day of August, 2011. Upon motion of City Council Member Marshall 'Chip' Holloway, seconded by City Council Member Jason Patin, the foregoing Ordinance No. 11-03 was duly passed and adopted by Roll-Call Vote.

Vote on the motion:

AYES:	Council Members: Ronald H. Carter, Marshall 'Chip' Holloway, Jason Patin, and Jerry Taylor
NOES:	Council Members: None
ABSENT:	Council Members: Steven P. Morgan

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Ridgecrest this 17th day of August, 2011.

Rachel J. Ford, CMC

RACHEL J. FORD, CMC, CITY CLERK