

AGREEMENT FOR SETTLEMENT OF DAMAGES
BY AND BETWEEN THE
PARTIES STATED HEREIN BELOW
RELATIVE TO CERTAIN TAX INCREMENT ALLOCATIONS

This AGREEMENT (“Agreement”) is made and entered into this twelfth day of November, 2020, by and between the Parties described below to formally and finally resolve the disputes described herein related to prior redevelopment pass-through payments made by COUNTY alleged by the LEAs to have been previously misallocated and/or underpaid.

PARTIES

- I. The Parties (“Parties”) to this Agreement comprise:
 - a) The COUNTY OF YOLO (“County”);
 - b) The YOLO COUNTY OFFICE OF EDUCATION (“COE”);
 - c) The DAVIS JOINT UNIFIED SCHOOL DISTRICT (“DJUSD”);
 - d) The WASHINGTON UNIFIED SCHOOL DISTRICT (“WUSD”);
 - e) The WINTERS JOINT UNIFIED SCHOOL DISTRICT (“WINTERS JUSD”);
 - f) The WOODLAND JOINT UNIFIED SCHOOL DISTRICT (“WOODLAND JUSD”);
 - g) The CITY OF DAVIS (“DAVIS”);
 - h) The CITY OF WEST SACRAMENTO (“WEST SACRAMENTO”);
 - i) The CITY OF WINTERS (“WINTERS”); and,
 - j) The CITY OF WOODLAND (“WOODLAND”).
2. COUNTY does, and shall be throughout this Agreement understood to, include its subordinate departments, including, without limitation the Yolo County Chief Financial Officer (in his consolidated capacity as the Yolo County Auditor-Controller/Treasurer-Tax Collector).
3. COE, DJUSD, WUSD, WINTERS JUSD, and WOODLAND JUSD shall hereinafter be referred to, collectively, as the “LEAs”.
4. DAVIS, WEST SACRAMENTO, WINTERS, and WOODLAND shall hereinafter be referred to, collectively, as the “CITIES”.

RECITALS

1. The following recitals are, to the best of the Parties’ knowledge, true and correct.

2. The County Chief Financial Officer is responsible for the correct distribution of property taxes collected in Yolo County.
3. The County Chief Financial Officer is responsible for the calculation and distribution of the local property taxes that are allocated to each redevelopment agency (“Tax Increment”).
4. Following the dissolution of California Redevelopment Agencies beginning with ABX1 26, effective February 1, 2012, as amended (the “Dissolution Act”), Tax Increment was deposited into a Redevelopment Property Tax Trust Fund (“RPTTF”) established under the Dissolution Act, from which the County Chief Financial Officer then made distributions to the local taxing entities within or partially within the redevelopment area of a former redevelopment agency, according to an allocation established by the Dissolution Act including, without limitation, contractual and statutory “pass-throughs” to local educational agencies comprising county offices of education, school districts, and community colleges.
5. This responsibility began with the 2011-2012 fiscal year in which an RPTTF was set up for each of the four former redevelopment agencies of the Cities.
6. Statutory pass-through payments to LEAs to be administered by the County Chief Financial Officer under the Dissolution Act include two types of pass-throughs: a two percent pass-through and pass-throughs under Assembly Bill 1290 (1993) (“AB 1290”).
7. In May 2019, the COE provided information that the County may have an error in the calculation of the AB1290 pass-through due to an inadvertent approach that only made a partial shift of AB 1290 pass-throughs to the Educational Revenue Augmentation Fund (“ERAF”), arising from the County having erroneously retained the use of pre-ERAF factors in the AB 1290 calculation prior to the 2016-17 fiscal year in the RPTTF and then in the 2016-17 fiscal year adopting a calculation contained in the Auditor-Controller’s Property Tax Manual, which did not contain shifts to ERAF for those jurisdictions with contractual pass-through arrangements.
8. The California Court of Appeal has ruled that AB1290 pass-throughs must be consistent with the broader ERAF tax treatment as to ERAF shift, under the cases of *Los Angeles Unified School District v. County of Los Angeles*, 181 Cal. App. 4th 414 (2010) and *Los Angeles Unified School District v. County of Los Angeles*, 217 Cal. App 4th 597 (2013).
9. The County Chief Financial Officer has determined that AB1290 pass-throughs to the LEAs have been miscalculated, resulting in under-allocation of Tax Increment from the RPTTF to LEAs, among other Affected Taxing Entities “ATE”, and over-allocation to the CITIES, among other ATEs, from the 2011-12 fiscal year and through successive years up until the 2018-19 fiscal year.
10. The County Chief Financial Officer has re-calculated the AB1290 pass-throughs using the correct methodology. The County Chief Financial Officer has already communicated his intent to administratively correct the fiscal year 2017-2018 misallocations effective January 1, 2021, and to administratively correct the fiscal year 2018-2019 misallocations effective June 1, 2021. The Parties have not contested the County Chief Financial Officer’s authority to enact these corrections, and agree that the methodology used by the County Chief Financial Officer to re-calculated the pass-throughs is correct.

11. The Cities have asserted that a three-year statute of limitations applies to any corrections by the Chief Financial Officer.

12. The Parties mutually desire to, and do resolve the Claims, as defined herein, by and through this Agreement.

AGREEMENT

NOW, THEREFORE, based upon the foregoing recitals, the Parties agree as follows:

1. For purposes of this Agreement, the Claims (“Claims”) comprise all claims, counter-claims, causes of action, theories of liability, and factual and affirmative defenses relating to:
 - a) AB 1290 pass-through payments previously miscalculated and correspondingly misallocated in the fiscal years 2011-2012 through and including 2016-17;
 - b) Arising from which miscalculation the CITIES received an improperly enlarged distribution;
 - c) And from which miscalculations the LEAs received an improperly diminished distribution of local property taxes; and,
 - d) Other ATEs received an improperly diminished distribution of local property taxes under the same miscalculation and misallocation, including, among others and without limitation, the Los Rios Community College District.
2. The LEAs, COUNTY, and CITIES desire to fully and finally settle the Claims and all related affirmative and other defenses to the Claims as set forth herein in the amount of the damages (“Damages”) described in the following subsections 2(a) and 2(b) and presented as Exhibit A to this Agreement:
 - a) As a result of the Claims, COE lost funds in an amount described under AB 1290, of which the loss of the amount of the 81.0% thereof not considered to be property taxes and available to be used for educational facilities under Health & Safety Code § 33607.5(a)(4), resulted in actual harm to COE in loss of funding for facilities, causing COE to take various actions to fund necessary repair, maintenance and development of facilities through other funding sources to COE’s substantial detriment comprising Damages to the COE in the amount of \$118,992.
 - b) As a result of the Claims, each of the LEAs lost funds in an amount described under AB 1290, of which the loss of the amount of the 56.7% thereof not considered to be property taxes and available to be used for educational facilities under Health & Safety Code § 33607.5(a)(4), resulted in actual harm to each of them in loss of funding, causing each of the LEAs to take various actions to fund necessary repair, maintenance and development of facilities through other funding sources to their substantial detriment comprising Damages to DJUSD in the amount of \$307,032, Damages to WUSD in the

amount of \$468,943, Damages to WINTERS JUSD in the amount of \$32,476 and Damages to WOODLAND JUSD in the amount of \$3,508.

3. As a compromise, in order to reach a mutually acceptable settlement of the Claims, DJUSD, WUSD, WINTERS JUSD, and WOODLAND JUSD shall forego recovery of the remainder 43.3% of funds identified under Health & Safety Code § 33607.5(a)(3)(A) as local property taxes.
4. As a compromise, in order to reach a mutually acceptable settlement of the Claims, COE shall forego recovery of the remainder 19% of funds identified under Health & Safety Code § 33607.5(a)(3)(C) as local property taxes.
5. Under the Dissolution Act, the Parties are each entitled to a portion of funds deposited into the RPTTF pursuant to Health & Safety Code § 34182 for each redevelopment area administered by the Cities, comprising the portion thereof described under Health & Safety Code § 34183(a)(4) (“Residuals”).
6. The CITIES, LEAs, and COUNTY, in order to reach a mutually acceptable settlement of the Claims, all agree that the least harm to the CITIES and all other ATEs will result from the payment of the Damages exclusively from future Residuals.
7. The Parties agree to the payment of the Damages to the LEAs as enumerated under Section 2, and its subsections, herein above as a compromise, in order to reach a mutually acceptable settlement of the Claims without any claw-back of funds overallocated to the CITIES during the period of the Claims, which payment shall be made by the COUNTY by and through its administration of the RPTTF, exclusively from Residuals irrespective of any other method prescribed for distribution thereof. Such payment of Damages shall be made prior to any other distribution to the taxing entities of the Residuals as described in Health & Safety Code § 34183(a)(4).
8. COUNTY shall make, and the CITIES shall not contest, payment of the Damages from Residuals, with all payments to be completed no later than June 30, 2022. In the alternative, any City may elect to satisfy any remaining Damages by making a monetary payment to the affected LEAs prior to June 30, 2022 of the amount not yet paid by Residuals, with written notice to COUNTY.
9. All other ATEs will also each be paid their respective share of underpaid AB 1290 pass-through payments misallocated to the CITIES and other ATEs during the fiscal years 2011-2012 through and including 2016-2017 period exclusively from future Residuals, in the amount of \$208,530 as shown in Exhibit A.
10. **Release of Claims**. The Parties agree that upon full payment of the Damages from Residuals as set forth herein above, the Claims shall be irrevocably extinguished. Except as otherwise provided for in this Agreement, and conditioned on compliance with the provisions contained herein, the Parties hereby release and forever discharge one another from any and all

actions, causes of action, actual or potential claims, liabilities, demands, damages, losses, costs, attorneys' fees, and expenses of every nature whatsoever, whether known or unknown, arising out of or relating to the Claims.

11. The Parties each acknowledge, by entering into this Agreement, that each is familiar with the provisions of Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties, being aware of said code section, hereby expressly, knowingly, and voluntarily waive any rights it may have thereunder, as well as under any other statutes or common law principles of similar effect with respect to the Claims.

12. **Mutual Cooperation.** The Parties agree to mutually cooperate in performing the obligations of this Agreement.

13. **Joint Drafting and Mutual Interpretation.** This Agreement shall be construed and interpreted in a neutral manner. This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against a particular party based on the assumption or contention that the Agreement was drafted by one of the Parties. In this regard, the provisions of California Civil Code Section 1654 are waived and deemed inapplicable to the interpretation of this Agreement. This Agreement was negotiated between the Parties at arm's length with each Party receiving advice from independent legal counsel of its own choosing.

14. **Entire Understanding.** This Agreement contains the entire understanding of the Parties. There are no representations, covenants, or undertakings other than those expressly set forth herein. The Parties acknowledge that no Party, or any agent or attorney of any Party has made any promise, representation, or warranty whatsoever, express or implied, not contained herein to induce any other Party to execute this Agreement. The Parties acknowledge that they have not executed this Agreement in reliance on any promise, representation, or warranty not specifically contained herein. The Parties, and each of them, fully represent and declare that they have carefully read this Agreement and that they have voluntarily signed this Agreement.

15. **No Warranties.** The Parties agree and acknowledge that neither the County nor any other Party warrants that this settlement will not or cannot be subject to audit findings by the State of California, or the defense of this Agreement as against any potential legal challenges by parties other than the Parties which may assert an interest in the Claims or any portion thereof or the alternative distribution of the Damages or Residuals as described herein. The Parties warrant that each is presently unaware of any such actual or potential audit findings or legal challenges.

16. **Supersession and Severability.** This Agreement supersedes any and all oral agreements between or among the Parties which are hereby merged into this final document. Should any

provision of this Agreement, other than the provisions of Sections 2 through 12 of this Agreement, be declared or determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement and the remainder of the Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been included.

17. **Applicable Law.** The validity of this Agreement and the interpretation of any of its terms or provisions shall be governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Woodland, California.

18. **Amendments or Modifications.** This Agreement may only be amended or modified by the mutual agreement of the Parties and only when the Parties memorialize the agreement to amend or modify in writing.

19. **Counterparts.** This Agreement may be executed in counterparts and by electronic signature, all of which, taken together, shall be deemed an original.

20. **Authorized Representative.** The persons executing this Agreement on behalf of a Party affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of the Party and to bind the Party to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of Party and Party understand that the other Parties are relying on this representation in entering into this Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

[signature pages begin on following page]

COUNTY OF YOLO

DocuSigned by:
By: Gary Sandy
Gary Sandy, Chair
Board of Supervisors

DocuSigned by:
By: Chad Rinde
Chad Rinde
Yolo County Chief Financial Officer

Attest:
Julie Dachtler, Senior Deputy Clerk
Board of Supervisors

DocuSigned by:
By: Julie Dachtler
(Seal)

Approved as to Form:

DocuSigned by:
Eric May
Eric May
Senior Deputy County Counsel

YOLO COUNTY OFFICE OF EDUCATION

DocuSigned by:
By: Garth Lewis
Name: Garth Lewis
Title: County Superintendent of Schools

DAVIS JOINT UNIFIED SCHOOL DISTRICT

DocuSigned by:
By: John Bowes
Name: John Bowes
Title: Superintendent

WASHINGTON UNIFIED SCHOOL DISTRICT

DocuSigned by:
By: Linda Luna
Name: Linda Luna
Title: Superintendent

WINTERS JOINT UNIFIED SCHOOL DISTRICT

DocuSigned by:
By: Diana Jimenez
Name: Diana Jimenez
Title: Superintendent

WOODLAND JOINT UNIFIED SCHOOL DISTRICT

DocuSigned by:
By: Thomas Pritchard
Name: Thomas Pritchard
Title: Superintendent

CITY OF DAVIS

DocuSigned by:
By: Michael Webb
Michael Webb
City Manager

Approved as to Form:

DocuSigned by:
By: Inder Khalsa
Inder Khalsa
City Attorney

CITY OF WEST SACRAMENTO

DocuSigned by:
By: Aaron Latrel
Aaron Latrel
City Manager

Attest:

DocuSigned by:
By: Yashim Abbas
Yashim Abbas
City Clerk

Approved as to Form:

DocuSigned by:
By: Jeffrey Mitchell
Jeffrey Mitchell
City Attorney

CITY OF WINTERS

DocuSigned by:
By: Shelly Gunby
Shelly Gunby
Interim City Manager/Director of
Financial Management

CITY OF WOODLAND

DocuSigned by:
By: Ken Hiatt
Ken Hiatt
City Manager

EXHIBIT A

10/8/2020

EXHIBIT A**(i) Correct Remaining Retrospective AB 1290 Pass-Throughs to All ATEs¹****Funded from Change in Residual Distributions to All ATEs, including
Cities, Special Districts, and All LEAs, but****(ii) Limit Corrections to LEAs to Facilities Share Only****Paid as Damages, Not as AB 1290 Pass-Throughs****FYs 2011-12 through 2016-17**

ATEs	Facilities Share	Facilities Share = Total Damages	Estimated Change in Residual Distributions									
			MOST RECENT Proportionate Percentage Share of Residual Distributions ^{2,3}									
			Davis 24.04%	West Sac 50.62%	Winters 26.50%	Woodland ³ 25.71%	LMA #4 0.25%	SYMAD 0.96%	WCD 2.74%	YCFCD 0.75%	Total K-14 LEAs	Total Residuals
Davis RPTTF	81.00%	46,534	(11,189)					(454)			(34,892)	(46,534)
West Sacramento RPTTF	81.00%	66,371		(33,597)			(166)	(630)			(31,978)	(66,371)
Winters RPTTF	81.00%	5,607			(1,486)			(57)	(154)	(41)	(3,870)	(5,607)
Woodland RPTTF	81.00%	479				(123)		(5)		(5)	(346)	(479)
Yolo COE		118,992	(11,189)	(33,597)	(1,486)	(123)	(166)	(1,145)	(154)	(46)	(71,086)	(118,992)
Davis Joint USD	56.70%	307,032	(73,824)					(2,995)			(230,213)	(307,032)
Washington Joint USD	56.70%	468,943		(237,382)			(1,171)	(4,449)			(225,942)	(468,943)
Winters Joint USD	56.70%	32,476			(8,607)			(328)	(889)	(235)	(22,416)	(32,476)
Woodland Joint USD	56.70%	3,508				(902)		(37)		(37)	(2,532)	(3,508)
Total K-12 LEAs		930,950	(85,013)	(270,979)	(10,094)	(1,025)	(1,336)	(8,954)	(1,043)	(318)	(552,188)	(930,950)
Davis RPTTF	52.50%	56,961	(13,696)					(556)			(42,710)	(56,961)
West Sacramento	52.50%	70,980		(35,930)			(177)	(673)			(34,199)	(70,980)
Los Rios CCD		127,941	(13,696)	(35,930)			(177)	(1,229)			(76,908)	(127,941)
Grand Total, All LEAs		1,058,891	(98,709)	(306,909)	(10,094)	(1,025)	(1,514)	(10,184)	(1,043)	(318)	(629,096)	(1,058,891)
		AB 1290 PTs										
City of West Sacramento		76,009		(38,476)			(190)	(721)			(36,622)	(76,009)
Davis RPTTF		4,316	(1,038)					(42)			(3,236)	(4,316)
Woodland RPTTF		265				(68)		(3)		(3)	(191)	(265)
Sacto-Yolo Mosquito Abatement District		4,580	(1,038)			(68)		(45)		(3)	(3,427)	(4,580)
Grand Total, All ATEs		1,139,480	(99,747)	(345,386)	(10,094)	(1,093)	(1,703)	(10,949)	(1,043)	(321)	(669,145)	(1,139,480)

1. Excludes County and Other ATEs in each Project Area with Pass-Through agreements that do not receive AB 1290 Pass-Throughs., or (ii) with 100% Pass-Through agreements that do not receive Residual Distributions.

2. Excludes County and Other ATEs in each Project Area with 100% Pass-Through agreements that do not receive Residual Distributions.

3. Most recent Residual Distribution percentage share is FY 2018-19, except for Woodland which is FY 2016-17. Percentage shares shown by individual RPTTF, except for SYMAD and YCFCD, which are weighted average shares across four and two RPTTFs, respectively.