

RESOLUTION NO. 11-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA ELECTING TO SERVE AS A SUCCESSOR AGENCY UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE IN THE EVENT THE AGENCY IS REQUIRED TO BE DISSOLVED; AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the Costa Mesa Redevelopment Agency, City of Costa Mesa, California ("Agency") is organized and existing pursuant to the California Community Redevelopment Law (Health and Safety Code § 33000, *et seq.* ("CRL") and is responsible for the administration of redevelopment activities within the City of Costa Mesa; and

WHEREAS, the City adopted the Redevelopment Plan ("Redevelopment Plan") for the Costa Mesa Downtown Project ("Project Area") that was originally adopted by the City Council by Ordinance No. 73-74 on December 24, 1973, and thereafter amended by Ordinance No. 77-27 on July 5, 1977, Ordinance No. 80-22 on November 18, 1980, Ordinance No. 86-24 on December 15, 1986, Ordinance No. 94-15 on November 7, 1994, Ordinance Nos. 03-12 and 03-13 on November 17, 2003, and Ordinance No. 07-13 on June 19, 2007; and

WHEREAS, the City and Agency are responsible for implementation of the Redevelopment Plan for the Project Area, and the Redevelopment Plan sets forth a plan for redevelopment of the Project Area consistent with the policies and standards of the General Plan of the City; 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 enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, continued redevelopment of the Project Area to eliminate blight, improve public facilities and infrastructure, provide affordable housing, and enter into public and private partnerships to improve the community, create jobs, and expand the local economy is vital to the health, safety and welfare of the City; and

WHEREAS, Parts 1.8, 1.85 and 1.9 of Division 24 of the CRL were added by Assembly Bill X1 26 and Assembly Bill X1 27 (together, "2011 Redevelopment Legislation"), which laws purport to become effective immediately; and

WHEREAS, the 2011 Redevelopment Legislation is a part of multiple trailer bills to the FY 2011-2012 California budget bills that were approved by both Houses of the State Legislature on June 15, 2011, signed by the Governor on June 28, 2011, and chaptered on June 29, 2011; and

WHEREAS, Part 1.8 of the CRL added by the Redevelopment Legislation ("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, Part 1.85 of the CRL added by the 2011 Redevelopment Legislation ("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 will administer the enforceable obligations of the Agency and otherwise wind up the Agency's affairs, all subject to the review and approval of an oversight committee; 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 Voluntary Alternative Redevelopment Program established in Part 1.9 ("Program"); and

WHEREAS, the City is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation is the subject of judicial challenge(s), including the

action: *California Redevelopment Association, et al v. Ana Matosantos, et al* ("CRA Action"); and

WHEREAS, the Supreme Court accepted original jurisdiction of the CRA Action on August 11, 2011, notified the parties of the briefing schedule, and, importantly, issued a stay order affecting Part 1.85 and Part 1.9, but the court did not stay Sections 34161 to 34167 of Part 1.8, then on August 17, 2011, the Supreme Court modified its stay order, which released the stay on Sections 34167.5 to 34169.5 of Part 1.8 and on Section 34194(b)(2) of Part 1.9, making those laws now effective ("Supreme Court Stay"); and

WHEREAS, pursuant to Part 1.85 Sections 34171(j) and 34173(a) provide that a successor agency is designated as successor entity to the former redevelopment agency and the host city that created the agency may elect to serve, or not to serve, as the successor agency under Part 1.85, albeit subject to the Supreme Court Stay; and

WHEREAS, as of the date of adoption of this Resolution, the City Council has not completed the process and/or the time for the "opt-in" ordinance to become effective has not elapsed due to the Supreme Court Stay in for order the Agency to participate in the Alternative Voluntary Redevelopment Program, therefore, the City Council desires to adopt this Resolution making an election in connection with the City to serve as the successor agency under Part 1.85 in the event the Agency is dissolved pursuant to Part 1.85.

NOW, THEREFORE, the City Council hereby finds, determines resolves and orders as follows:

Section 1. The above Recitals are true and correct and are a substantive part of this Resolution.

Section 2. Subject to the Supreme Court Stay, this Resolution is adopted pursuant to Part 1.85, Sections 34171 and 34173.

Section 3. The City Council hereby elects to serve as a successor agency under Part 1.85 in the event the Agency is required to be dissolved pursuant to Part 1.85.

Section 4. The City Clerk is hereby authorized and directed to file a certified copy of this Resolution with the County Auditor-Controller.

Section 5. The Chief Executive Officer (and designees, as officers and staff of the City) is hereby authorized and directed to do any and all things which they may deem necessary or advisable to effectuate this Resolution and any such actions previously taken by the CEO (and designees) are hereby ratified and confirmed.

Section 6. Subject to the Supreme Court Stay and at such time as the City and Agency become exempt from Parts 1.8 and 1.85 based on the effectiveness of its actions to "opt-in" pursuant to Part 1.9, this Resolution shall be of no further force or effect.

Section 7. This Resolution shall in no way be construed as requiring the City (or Agency) to abide by the 2011 Redevelopment Legislation in the event either, or both, bills are found unconstitutional or otherwise legally invalid in whole or in part, nor shall this Resolution effect or give rise to any waiver of rights or remedies the City (and/or Agency) may have, whether in law or in equity, to challenge 2011 Redevelopment Legislation. This Resolution shall not be construed as the City's (and/or Agency's) willing acceptance of, or concurrence with the 2011 Redevelopment Legislation, either AB X1 26 or AB X1 27; nor does this Resolution evidence any assertion or belief whatsoever on the part of the City (and/or Agency) the 2011 Redevelopment Legislation is/are constitutional or lawful.

Section 8. This Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines. The City Council has determined that this Resolution is not a "project" for purposes of CEQA, as that term is defined by

Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b) (5)).

Section 9. This Resolution shall take effect upon the date of its adoption.

Section 10. The City Clerk shall certify to the adoption of this Resolution.

PASSED AND ADOPTED this 6th day of September 2011.



Gary Monahan, Mayor

ATTEST:



Julie Folcik, City Clerk

APPROVED AS TO FORM:



Thomas Duarte, City Attorney

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF COSTA MESA.

DATED:

February 15, 2012


JULIE FOLCIK, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing Resolution No. 11-37 was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 6th day of September, 2011, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: MONAHAN, RIGHEIMER, LEECE.

NOES: COUNCIL MEMBERS: NONE.

ABSENT: COUNCIL MEMBERS: BEVER, MENSINGER.

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 7th day of September, 2011.



JULIE FOLCIK, CITY CLERK

(SEAL)