

ORDINANCE NO. \_\_\_\_\_

1  
2 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
3 OCEANSIDE, CALIFORNIA, DETERMINING IT WILL COMPLY  
4 WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT  
5 PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE  
6 CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT  
7 THE CONTINUED EXISTENCE AND OPERATION OF THE  
8 REDEVELOPMENT AGENCY OF THE CITY OF OCEANSIDE

9 WHEREAS, the City Council of the City of Oceanside (“City”) approved and adopted  
10 the Redevelopment Plan for the City of Oceanside, Redevelopment Project (“Redevelopment  
11 Plan”) covering certain properties within the City (the “Project Area”); and

12 WHEREAS, the Redevelopment Agency of the City of Oceanside (“Agency”) is  
13 engaged in activities to execute and implement the Redevelopment Plan pursuant to the  
14 provisions of the California Community Redevelopment Law (Health and Safety Code § 33000,  
15 et seq.) (“CRL”); and

16 WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken  
17 redevelopment projects in the Project Area to eliminate blight, to improve public facilities and  
18 infrastructure, to renovate and construct affordable housing, and to enter into partnerships with  
19 private industries to create jobs and expand the local economy; and

20 WHEREAS, over the next few years, the Agency hopes to implement a variety of  
21 redevelopment projects and programs to continue to eliminate and prevent blight, stimulate and  
22 expand the Project Area’s economic growth, create and develop local job opportunities and  
23 alleviate deficiencies in public infrastructure, to name a few; and

24 WHEREAS, as part of the 2011-12 State budget bill, the California Legislature has  
25 recently enacted and the Governor has signed, companion bills AB 1X 26 and AB 1X 27,  
26 requiring that each redevelopment agency be dissolved unless the community that created it  
27 enacts an ordinance committing it to making certain payments; and

28 WHEREAS, specifically, AB 1X 26 prohibits agencies from taking numerous actions,  
effective immediately and purportedly retroactively, and additionally provides that agencies are  
deemed to be dissolved as of October 1, 2011; and

WHEREAS, AB 1X 27 provides that a community may participate in an “Alternative  
Voluntary Redevelopment Program,” in order to enable a redevelopment agency within that

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1 community to remain in existence and carry out the provisions of the CRL, by enacting an  
2 ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

3 **WHEREAS**, the Alternative Voluntary Redevelopment Program requires that the  
4 community agree by ordinance to remit specified annual amounts to the county auditor-  
5 controller; and

6 **WHEREAS**, under the threat of dissolution pursuant to AB 1X 26, and upon the  
7 contingencies and reservations set forth herein, the City shall make the Fiscal Year 2011-2012  
8 community remittance, currently estimated to be \$2,873,285 as well as the subsequent annual  
9 community remittances as set forth in the CRL; and

10 **WHEREAS**, the City reserves the right to appeal the California Director of Finance's  
11 determination of the Fiscal Year 2011-12 community remittance, as provided in Health and  
12 Safety Code Section 34194; and

13 **WHEREAS**, City understands and believes that an action challenging the  
14 constitutionality of AB 1X 26 and AB 1X 27 will be filed on behalf of cities, counties and  
15 redevelopment agencies; and

16 **WHEREAS**, while the City currently intends to make these community remittances,  
17 they shall be made under protest and without prejudice to the City's right to recover such  
18 amounts and interest thereon, to the extent there is a final determination that AB 1X 26 and AB  
19 1X 27 are unconstitutional; and

20 **WHEREAS**, the City reserves the right, regardless of any community remittance made  
21 pursuant to this Ordinance, to challenge the legality of AB 1X 26 and AB 1X 27; and

22 **WHEREAS**, to the extent a court of competent jurisdiction enjoins, restrains, or grants a  
23 stay on the effectiveness of the Alternative Voluntary Redevelopment Program's payment  
24 obligation of AB 1X 26 and AB 1X 27, the City shall not be obligated to make any community  
25 remittance for the duration of such injunction, restraint, or stay; and

26 **WHEREAS**, all other legal prerequisites to the adoption of this Ordinance have  
27 occurred.

28 **THE CITY COUNCIL OF THE CITY OF OCEANS DIE, CALIFORNIA, DOES  
ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and  
incorporated herein by reference.

1           **Section 2. Participation in the Alternative Voluntary Redevelopment Program.**

2 In accordance with Health and Safety Code Section 34193, and based on the Recitals set forth  
3 above, the City Council hereby determines that the City shall comply with the provisions of Part  
4 1.9 of Division 24 of the Health and Safety Code, as enacted by AB 1X 27.

5           **Section 3. Payment Under Protest.** Except as set forth in Section 4, below, the City  
6 Council hereby determines that the City shall make the community remittances set forth in Health  
7 and Safety Code section 34194 *et seq.*

8           **Section 4. Effect of Stay or Determination of Invalidity.** City shall not make any  
9 community remittance in the event a court of competent jurisdiction either grants a stay on the  
10 enforcement of AB 1X 26 and AB 1X 27 or determines that AB 1X 26 and AB 1X 27 are  
11 unconstitutional and therefore invalid, and all appeals there from are exhausted or unsuccessful, or  
12 time for filing an appeal there from has lapsed. Any community remittance shall be made under  
13 protest and without prejudice to the City's right to recover such amount and interest thereon in the  
14 event that there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional. If there  
15 is a final determination that AB 1X 26 and AB 1X 27 are invalid, this Ordinance shall be deemed  
16 to be null and void and of no further force or effect.

17           **Section 5. Implementation.** The City Council hereby authorizes and directs the  
18 Executive Director to take any action and execute any documents necessary to implement this  
19 Ordinance, including but not limited to notifying the San Diego County Auditor-Controller, the  
20 Controller of the State of California, and the California Department of Finance of the adoption  
21 of this Ordinance and the City's agreement to comply with the provisions of Part 1.9 of Division  
22 24 of the Health and Safety Code, as set forth in AB 1X 27.

23           **Section 6. Additional Understandings and Intent.** It is the understanding and  
24 intent of the City Council that, once the Agency is again authorized to enter into agreements  
25 under the CRL, the City will enter into an agreement with the Agency as authorized pursuant to  
26 Section 34194.2, whereby the Agency will transfer annual portions of its tax increment to the  
27 City in amounts not to exceed the annual community remittance payments to enable the City,  
28 directly or indirectly, to make the annual remittance payments. The City Council does not  
intend, by enactment of this Ordinance, to pledge any of its general fund revenues or assets to  
make the remittance payments.

1           **Section 7. CEQA.** The City Council finds, under Title 14 of the California Code of  
2 Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the  
3 California Environmental Quality Act (“CEQA”) in that it is not a “project,” but instead consists  
4 of the creation and continuation of a governmental funding mechanism for potential future  
5 projects and programs, and does not commit funds to any specific project or program. The City  
6 Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the  
7 County of San Diego in accordance with CEQA Guidelines.

8           **Section 8. Custodian of Records.** The documents and materials that constitute the  
9 record of proceedings on which these findings are based are located at the City Clerk’s office at  
10 300 North Coast Highway, Oceanside, 92054 (North Building).

11           **Section 9. Severability.** If any provision of this Ordinance or the application  
12 thereof to any person or circumstance is held invalid, such invalidity shall not affect other  
13 provisions or applications of this Ordinance which can be given effect without the invalid  
14 provision or application, and to this end the provisions of this Ordinance are severable. The  
15 City Council hereby declares that it would have adopted this Ordinance irrespective of the  
16 invalidity

17           **Section 10. Certification; Publication.** The City Clerk shall certify to the adoption of  
18 this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption  
19 in a newspaper of general circulation printed and published within the City of Oceanside, and  
20 shall post a certified copy of this Ordinance, including the vote for and against the same, in the  
21 Office of the City Clerk in accordance with Government Code § 36933.

22           **Section 11. Effective Date.** This Ordinance shall become effective thirty (30) days  
23 from its adoption.

24           **INTRODUCED** at a regular meeting of the City Council of the City of Oceanside,  
25 California held on the \_\_\_\_\_th day of \_\_\_\_\_2011, and, thereafter,  
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**PASSED AND ADOPTED** by the Oceanside City Council on this \_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:

NAYS:

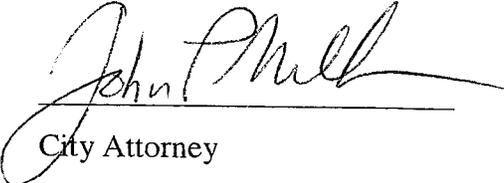
ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor of the City of Oceanside  
APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney