

## RESOLUTION NO. 2012-004

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA ELECTING NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE FONTANA REDEVELOPMENT AGENCY AND SELECTING THE FONTANA HOUSING AUTHORITY AS THE TRANSFEREE OF SUCH ASSETS AND FUNCTIONS PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE.**

**WHEREAS**, the City of Fontana ("City") currently has five effective redevelopment projects: (1) Downtown (Ordinance No. 537, December 16, 1975); (2) Jurupa Hills (Ordinance No. 706, October 6, 1981); (3) North Fontana (Ordinance No. 739, December 7, 1982); (4) Sierra Commercial Corridor (Ordinance No. 1055, June 16, 1992); and (5) Southwest Industrial Park (Ordinance No. 567, July 19, 1977; amended and restated by Ordinance No. 1619, June 23, 2010) (collectively and as amended, the "Project Areas"); and

**WHEREAS**, the Fontana Redevelopment Agency ("Agency") has been engaged in activities to redevelop the Project Areas pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

**WHEREAS**, on June 28, 2011, the State of California enacted California Health and Safety Code Section 34161 et seq. as part of the State's enactment of Assembly Bill 1X 26 ("AB 1X 26"), immediately prohibiting further redevelopment activity by redevelopment agencies and dissolving all redevelopment agencies in the State of California on October 1, 2011; and

**WHEREAS**, on June 28, 2011, the State of California also enacted California Health and Safety Code Section 34192 et seq. as Assembly Bill 1X 27 ("AB 1X 27"), providing communities the opportunity to continue redevelopment activity through their local redevelopment agencies by electing to participate in the "Alternative Voluntary Redevelopment Program"; and

**WHEREAS**, on July 18, 2011, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 ("Legal Action"), challenging the constitutionality of AB 1X 26 and AB 1X 27, on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement of AB 1X 26 and AB 1X 27, pending the Supreme Court's determination of the constitutionality of AB 1X 26 and AB 1X 27; and

**WHEREAS**, on August 11, 2011, the Supreme Court issued an order in the Legal Action granting a partial stay of California Health and Safety Code Section 34161 et seq., exclusive of California Health and Safety Code Sections 34161 through 34167 (prohibiting all new redevelopment activity), and a complete stay of California Health

and Safety Code Section 34192 et seq., such that the City and the Agency could not pursue new redevelopment activity under the Alternative Voluntary Redevelopment Program (collectively, "Stay"); and

**WHEREAS**, on August 17, 2011, the Supreme Court modified the Stay such that the Stay no longer affected California Health and Safety Code Sections 34167.5 through 34169.5, in addition to California Health and Safety Code Sections 34161 through 34167, or California Health and Safety Code Section 34194(b)(2); and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the Legal Action, upholding AB 1X 26, invalidating AB 1X 27, extending certain statutory deadlines under Health and Safety Code Sections 34170 through 34191, and dissolving all redevelopment agencies throughout the State of California, effective February 1, 2012; and

**WHEREAS**, Health and Safety Code Section 34176 provides that the City may elect to retain the housing assets and functions previously performed by the Agency. If the City does not elect to retain such housing assets and functions, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Agency, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred as follows: (1) where there is no housing authority in the territorial jurisdiction of the Agency, to the State of California Department of Housing and Community Development; (2) where there is one local housing authority in the territorial jurisdiction of the Agency, to that housing authority; (3) where there is more than one local housing authority in the territorial jurisdiction of the Agency, to the local housing authority selected by the City; and

**WHEREAS**, the City Council permitted the Fontana Housing Authority ("Authority") to transact business and exercise power conferred on the Authority under the Housing Authorities Law (Health & Safety Code Section 34200 et seq.) by Resolution No. 1994-38 on May 3, 1994; and

**WHEREAS**, the Authority is not the only local housing authority within the territorial jurisdiction of the Agency; and

**WHEREAS**, the City desires to elect not to retain the housing assets and functions of the dissolved Agency and the City desires to select the Authority as the transferee of such housing functions and assets; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF FONTANA DOES HEREBY RESOLVE AND FIND AS FOLLOWS:**

**Section 1. Recitals.** The Recitals preceding this Resolution are true and correct and are incorporated into this Resolution.

**Section 2. CEQA Compliance.** The actions taken in this Resolution do not commit the City to any action that may have a significant effect on the environment. As a result, such actions do not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

**Section 3. Election Not to Retain Agency Housing Assets and Functions; Selection of Fontana Housing Authority.** Pursuant to Health and Safety Code Section 34176, the City Council hereby elects not to retain the housing assets and functions previously performed by the Fontana Redevelopment Agency. Further, pursuant to Health and Safety Code Section 34176(b), upon dissolution of the Fontana Redevelopment Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, the City hereby selects the Fontana Housing Authority as transferee of all rights, powers, assets, liabilities, duties, and obligations associated with the housing assets and functions of the dissolved Fontana Redevelopment Agency.

**Section 4. Implementation.** The City Council hereby authorizes and directs the City Manager to take any action and sign any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the County of San Bernardino Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution in accordance with AB 1X 26.

**Section 5. Severability.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council declares that the City Council would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

**Section 6. Certification.** The City Clerk shall certify to the adoption of this Resolution.

**Section 7. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**APPROVED AND ADOPTED THIS 24th day of January, 2012.**

**READ AND APPROVED AS TO LEGAL FORM:**

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

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City of Fontana at a regular meeting on the 24<sup>th</sup> day of January, 2012, by the following vote to wit:

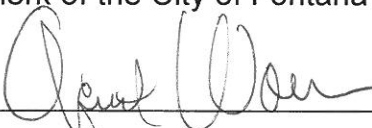
**AYES:** Mayor Warren and Council Members Roberts, Slowik, Tahan, and Wibert.

**NOES:** None.

**ABSENT:** None.

**ABSTAIN:** None.

  
\_\_\_\_\_  
City Clerk of the City of Fontana

  
\_\_\_\_\_  
Mayor of the City of Fontana

**ATTEST:**

  
\_\_\_\_\_  
City Clerk of the City of Fontana

STATE OF CALIFORNIA                     )  
COUNTY OF SAN BERNARDINO         )     ss.  
CITY OF FONTANA                         )


I, TONIA LEWIS, City Clerk of the City of Fontana, do hereby certify that the foregoing Resolution No. 2012-004 was duly and regularly adopted by the City Council of the City of Fontana at a regular meeting thereof on the 24th day of January, 2012 and that the same was passed and adopted by the following vote, to wit:

**AYES:** Mayor Warren and Council Members Roberts, Slowik, Tahan, and Wibert.

**NOES:** None.

**ABSENT:** None.

**ABSTAIN:** None.

  
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Tonia Lewis, City Clerk