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**WHEREAS**, the City Council of the City of Colton (“City”) currently has five effective redevelopment projects: (1) the Cooley Ranch Redevelopment Project (adopting Ordinance No. 1478, dated July 29, 1975); (2) the Santa Ana River Redevelopment Project (adopting Ordinance No. 1632, dated December 29, 1982); (3) the West Valley Redevelopment Project (adopting Ordinance No. O-10-86, dated July 15, 1986 and its amendment adopting Ordinance No. O-9-87, dated June 30, 1987); (4) the Mt. Vernon Corridor Redevelopment Project (adopting Ordinance No. O-8-87, dated June 30, 1987); and (5) the Rancho/Mill Redevelopment Project (adopting Ordinance No. O-13-94, dated July 5, 1994) (collectively and as amended, the “Project Areas”); and

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2       **WHEREAS**, on August 11, 2011, the Supreme Court issued an order in the Legal  
3 Action granting a partial stay of California Health and Safety Code Sections 34161, *et seq.*,  
4 exclusive of California Health and Safety Code Sections 34161 through 34167 (which  
5 suspend all new redevelopment activity), and a complete stay of California Health and Safety  
6 Code Sections 34192, *et seq.*, such that the City and the Agency cannot currently pursue new  
7 redevelopment activity under the Alternative Voluntary Redevelopment Program  
8 (collectively, “Stay”); and  
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10       **WHEREAS**, if upheld by the Supreme Court, the Alternative Voluntary  
11 Redevelopment Program would allow the Agency to continue pursuing redevelopment within  
12 the City, rather than being dissolved pursuant to California Health and Safety Code Sections  
13 34161, *et seq.*; and  
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15       **WHEREAS**, in order to participate in the Alternative Voluntary Redevelopment  
16 Program, if and when the program goes back into effect, the City must adopt an ordinance  
17 stating the City’s participation in the program and notify the County of San Bernardino  
18 Auditor-Controller, the State Controller and the State Department of Finance of such  
19 participation; and  
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21       **WHEREAS**, California Health and Safety Code Sections 34192, *et seq.*, provides that  
22 the City must adopt such an ordinance before November 1, 2011, and there is no assurance  
23 that the Supreme Court will provide additional time to adopt such an ordinance, if California  
24 Health and Safety Code Sections 34192, *et seq.*, are eventually upheld by the Supreme Court;  
25 and  
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27       **WHEREAS**, participation in the Alternative Voluntary Redevelopment Program  
28 requires the City to pay certain dollar amounts annually, based on formulas set forth in  
California Health and Safety Code Section 34194 (“Community Remittance”), to the County  
of San Bernardino Auditor-Controller; and

**WHEREAS**, for Fiscal Year 2011-2012 the State of California Director of Finance  
was required to notify the City by August 1, 2011, of the dollar amount of the Community  
Remittance payable by the City to participate in the Alternative Voluntary Redevelopment  
Program for such fiscal year; and

**WHEREAS**, the State of California Director of Finance notified the City, as of  
August 1, 2011, that the dollar amount of the Community Remittance payable by the City to  
participate in the Alternative Voluntary Redevelopment Program for Fiscal Year 2011-2012 is  
Three Million Two Hundred Forty Thousand Nine Dollars (\$3,240,009); and

**WHEREAS**, the City has timely filed an appeal of the Community Remittance  
payment amount for Fiscal Year 2011-2012 with the State of California Director of Finance;  
and

**WHEREAS**, the County of San Bernardino Auditor-Controller may charge the City a  
fee that does not exceed the reasonable costs to the County of San Bernardino Auditor-  
Controller for implementing the Alternative Voluntary Redevelopment Program; and

1       **WHEREAS**, if the City participates in the Alternative Voluntary Redevelopment  
2 Program, but later fails to make the required Community Remittance payments to the County  
3 of San Bernardino Auditor-Controller, the City will have assigned its rights to receive  
4 payments under agreements with the Agency and the Agency will be subject to dissolution,  
pursuant to California Health and Safety Code Sections 34161, *et seq.*; and

5       **WHEREAS**, the City intends to participate in the Alternative Voluntary  
6 Redevelopment Program under the provisions of California Health and Safety Code Sections  
7 34161, *et seq.*, and California Health and Safety Code Sections 34192, *et seq.*, as they existed  
8 prior to imposition of the Stay, because such laws suspended all redevelopment activity  
within the City, would dissolve the Agency and threaten the future health, safety and welfare  
of the City; and

9       **WHEREAS**, the City does not intend to participate in the Alternative Voluntary  
10 Redevelopment Program, if all or any portion of California Health and Safety Code Sections  
11 34161, *et seq.*, or California Health and Safety Code Sections 34192, *et seq.*, are determined  
12 by a court of competent jurisdiction to be unconstitutional, illegal, invalid or otherwise  
13 unenforceable or inapplicable, for any reason or in any manner that allows the Agency to  
14 continue its operations and redevelopment activities in a manner acceptable to the City  
Council, without the City's participation in the Alternative Voluntary Redevelopment  
Program, and all appeals of such court determination are exhausted or unsuccessful, or the  
time for filing an appeal of such court determination has lapsed; and

15       **WHEREAS**, by adoption of this Ordinance, the City does not intend to waive any  
16 right or make any acknowledgment or admission regarding and fully reserves all rights to  
17 challenge the constitutionality, legality, validity, enforceability or applicability of California  
18 Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code Sections  
34192, *et seq.*, and related statutes, repeal this Ordinance or recover any or all amounts paid  
pursuant to California Health and Safety Code Sections 34192, *et seq.*;

19       **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON,**  
20 **CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

21       **Section 1.    Recitals.** The Recitals preceding this Ordinance are true and correct  
22 and are incorporated into this Ordinance by this reference.

23       **Section 2.    CEQA.** Adoption of this Ordinance is exempt from the requirements  
24 of the California Environmental Quality Act ("CEQA"), pursuant to State CEQA Guidelines  
25 (Title 14 California Code of Regulations Sections 15000, *et seq.*) Section 15061(b)(3),  
26 because it can be seen with certainty that payment of Community Remittance amounts to the  
27 County of San Bernardino will not have a significant effect on the environment and pursuant  
28 to State CEQA Guidelines 15378(b)(4) because payment of Community Remittance amounts  
to the County of San Bernardino is the creation of government funding mechanisms or other  
government fiscal activities, which do not involve any commitment to any specific project  
which may result in a potentially significant physical impact on the environment. 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 Ordinance.

1           **Section 3. Participation in the Alternative Voluntary Redevelopment**  
2 **Program.** If and when all or any portion of California Health and Safety Code Sections  
3 34161, *et seq.*, is determined by a court of competent jurisdiction to be constitutional in a  
4 manner that suspends the Agency's redevelopment activities or dissolves or will dissolve the  
5 Agency and the Alternative Voluntary Redevelopment Program, pursuant to California Health  
6 and Safety Code Sections 34192, *et seq.*, goes back into effect, the City Council hereby  
7 determines that the City will participate in the Alternative Voluntary Redevelopment Program  
8 for Fiscal Year 2011-2012 and subsequent fiscal years and pay the Community Remittance  
9 amounts payable pursuant to California Health and Safety Code Section 34194, subject to  
10 annual City budget appropriations and the City Council's reserved legislative discretion and  
11 other rights. The City's participation in the Alternative Voluntary Redevelopment Program,  
12 including all Community Remittance payments made related to such program, shall be under  
13 protest, subject to the City's reserved rights and without prejudice to the City's reserved  
legislative discretion to repeal this Ordinance and not participate in the Alternative Voluntary  
Redevelopment Program and/or right to recover any or all amounts of Community Remittance  
payments and interest on the amounts of such payments in the future, if all or any portion of  
California Health and Safety Code Sections 34161, *et seq.*, or California Health and Safety  
Code Sections 34192, *et seq.*, are determined by a court of competent jurisdiction to be  
unconstitutional, illegal, invalid or otherwise unenforceable or inapplicable, for any reason or  
in any manner.

14           **Section 4. Statement of Additional Intent.** The intent of the City Council is that,  
15 if and when all or any portion of California Health and Safety Code Sections 34161, *et seq.*, is  
16 determined by a court of competent jurisdiction to be constitutional in a manner that suspends  
17 the Agency's redevelopment activities or dissolves or will dissolve the Agency, the  
18 Alternative Voluntary Redevelopment Program, pursuant to California Health and Safety  
19 Code Sections 34192, *et seq.*, goes back into effect and the Agency is again authorized to  
20 enter into agreements under the California Community Redevelopment Law, the City will  
21 enter into an agreement with the Agency, as authorized pursuant to California Health and  
22 Safety Code Section 34194.2, whereby the Agency will transfer a portion of the Agency's  
annual tax increment revenue for each fiscal year to the City in amounts not to exceed the  
annual Community Remittance payments payable by the City for such fiscal year to enable  
the City, directly or indirectly, to make the annual Community Remittance payments for such  
fiscal year. The City Council does not intend, by enactment of this Ordinance, to pledge any  
of the City's general fund revenues or assets to make any Community Remittance payments.

23           **Section 5. Effect of Stay; Reservation of Rights on Invalidity of Law.** The  
24 City's participation in the Alternative Voluntary Redevelopment Program pursuant to this  
25 Ordinance is subject to the Stay and the future determination by a court of competent  
26 jurisdiction that all or any portion of California Health and Safety Code Sections 34161, *et*  
27 *seq.*, is constitutional in a manner that suspends the Agency's redevelopment activities or  
28 dissolves or will dissolve the Agency, and reinstatement of the Alternative Voluntary  
Redevelopment Program, pursuant to California Health and Safety Code Sections 34192, *et*  
*seq.* The City shall not make any Community Remittance payments, unless and until all such  
conditions are satisfied. Further, if all or any portion of California Health and Safety Code  
Sections 34161, *et seq.*, or California Health and Safety Code Sections 34192, *et seq.*, are  
determined by a court of competent jurisdiction to be unconstitutional, illegal, invalid or  
otherwise unenforceable or inapplicable, for any reason or in any manner that allows the  
Agency to continue its operations and redevelopment activities in a manner acceptable to the

1 City Council, without the City's participation in the Alternative Voluntary Redevelopment  
2 Program, and all appeals of such court determination are exhausted or unsuccessful, or the  
3 time for filing an appeal of such court determination has lapsed, the City Council reserves its  
4 right and legislative discretion to repeal this Ordinance and not participate in the Alternative  
5 Voluntary Redevelopment Program.

6 **Section 6. Reservation of Rights to Challenge Law.** Notwithstanding the other  
7 provisions of this Ordinance or any Community Remittance payments made by the City  
8 pursuant to the Alternative Voluntary Redevelopment Program, the City reserves all right and  
9 legislative discretion to repeal this Ordinance and not participate in the Alternative Voluntary  
10 Redevelopment Program and/or challenge the constitutionality, legality, validity,  
11 enforceability or applicability of all or any portion of California Health and Safety Code  
12 Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, and/or  
13 related statutes. The City contends that all or a portion of California Health and Safety Code  
14 Sections 34161, *et seq.*, California Health and Safety Code Sections 34192, *et seq.*, and/or  
15 related statutes are unconstitutional, illegal, invalid, unenforceable or inapplicable regarding  
16 the City and/or the Agency. Neither the adoption of this Ordinance, nor references to  
17 California Health and Safety Code Sections 34161, *et seq.*, California Health and Safety Code  
18 Sections 34192, *et seq.*, and/or related statutes in this Ordinance, nor the payment of any  
19 Community Remittance payments pursuant to California Health and Safety Code Sections  
20 34192, *et seq.*, are intended to be an acknowledgment, admission or waiver of rights by the  
21 City regarding the constitutionality, legality, validity, enforceability or applicability of all or  
22 any portion of California Health and Safety Code Sections 34161, *et seq.*, California Health  
23 and Safety Code Sections 34192, *et seq.*, and/or any related statutes.

24 **Section 7. Implementation.** The City Council hereby authorizes and directs the  
25 City Manager, on behalf of the City, to take any and all action and make or enter into any and  
26 all documents or agreements necessary to implement this Ordinance, including notifying the  
27 County of San Bernardino Auditor-Controller, the Controller of the State of California, and  
28 the State of California Department of Finance of the adoption of this Ordinance and the City's  
participation in the Alternative Voluntary Redevelopment Program, and if and when all or any  
portion of California Health and Safety Code Sections 34161, *et seq.*, is determined by a court  
of competent jurisdiction to be constitutional in a manner that suspends the Agency's  
redevelopment activities or dissolves or will dissolve the Agency and the Alternative  
Voluntary Redevelopment Program, pursuant to California Health and Safety Code Sections  
34192, *et seq.*, goes back into effect, making Community Remittance payments pursuant to  
California Health and Safety Code Sections 34192, *et seq.*, appealing the determination of the  
amounts of such payments and entering into an agreement with the Agency to advance or  
reimburse the City the amount of any and all such Community Remittance payments paid by  
the City, all subject to the conditions and reservations in this Ordinance.

**Section 8. Custodian of Records.** The documents and materials constituting the  
record of proceedings on which the findings contained in this Ordinance are based are located  
at the City Clerk's office located at 650 North La Cadena Drive, Colton, California. The  
custodian for these records is the City Clerk of the City of Colton.

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

**Section 10. Certification; Publication.** The City Clerk shall certify to the adoption of this Ordinance and cause this Ordinance or a summary of this Ordinance to be published once, within 15 days following the date of adoption of this Ordinance by the City Council, in a newspaper of general circulation printed and published within the City of Colton and shall post a certified copy of this Ordinance, including the vote for and against this Ordinance by the members of the City Council, in the Office of the City Clerk, all in accordance with California Government Code Section 36933.

**Section 11. Effective Date.** This Ordinance shall become effective thirty (30) days following the date of adoption of this Ordinance by the City Council.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Colton on the 16th day of August, 2011, and **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Colton on the 6th day of September, 2011, by the following vote:

AYES:	Council Members:	Toro, Gonzales, Yzaguirre, Oliva, Bennett, Perez and Mayor Zamora
NAYS:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

\_\_\_\_\_  
SARAH S. ZAMORA  
Mayor  
City of Colton

ATTEST:

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EILEEN C. GOMEZ, CMC  
City Clerk  
City of Colton

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**SUMMARY**

On September 6, 2011, the City Council of the City of Colton will consider adopting an ordinance to participate in the Alternative Voluntary Redevelopment Program pursuant to California Health and Safety Code Sections 34192, *et seq.*, subject to certain conditions and reservations. A certified copy of the full text of this proposed ordinance is located in the City Clerk's office.

The City Council meets at 6:00 p.m. in the Council Chambers in the Colton City Hall, located at 650 North La Cadena Drive. The City Clerk's office is located in City Hall near the Council Chambers.