

ORDINANCE NO. 28525

AN ORDINANCE OF THE CITY OF SAN JOSÉ ADOPTING THE PROPOSED AMENDMENT TO THE REDEVELOPMENT PLANS FOR THE MERGED PROJECT AREA TAX INCREMENT LIMIT AND BONDED INDEBTEDNESS LIMIT INCREASES; AND MAKING CERTAIN FINDINGS

WHEREAS, there are 21 redevelopment project areas (“Project Areas”) throughout the City of San José. Over time, the 21 Project Areas have been merged into one project area, the San José Merged Redevelopment Project Area (“Merged Project Area”); and

WHEREAS, pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 *et seq.*), the Agency has submitted to this Council for consideration a proposed amendment to increase the tax increment limit, establish a single limit on the amount of bonded indebtedness that may be outstanding at any one time, and modify the list of eligible public improvements in each Redevelopment Plan for the Merged Project Area so that all Redevelopment Plans for the Merged Project Area have consistent language relating to public improvements (“Amendment”); and

WHEREAS, the Agency has prepared and submitted to the Council a report accompanying the proposed Amendment prepared pursuant to Sections 33352 and 33457.1 of the Community Redevelopment Law (“Report to Council”), and this Council has reviewed and considered the Report to Council, which is incorporated herein by reference. Under separate resolution the Council has approved the Report to Council. The Report to Council has been made available to the public prior to the public hearing described below; and

WHEREAS, pursuant to the provisions of Title 21 of the Municipal Code, the Director of the City of San José Planning, Building, and Code Enforcement Department completed

the review required under the California Environmental Quality Act ("CEQA") for the proposed Amendment. It was determined that, amongst other things, the proposed Amendment does not warrant additional CEQA documentation beyond what has been previously prepared for the Redevelopment Plans for the Merged Project Area since the Amendment does not change the scope of any projects described within existing Redevelopment Plans nor commit to the implementation of any particular project. A copy of the environmental determination prepared in connection with the City of San José Planning, Building, and Code Enforcement Department's review is attached to the Report to Council as Appendix 12; and

WHEREAS, on February 11, 2009, the City of San José's Planning Commission determined that the Amendment is consistent with the San José 2020 General Plan; and

WHEREAS, Community Redevelopment Law requires that this Council consider the Amendment at a public hearing, which may be a joint public hearing with the Board of Directors of the Agency; and

WHEREAS, the Agency caused notice of joint public hearing to be published, and mailed to those required recipients as set forth in Health and Safety Code sections 33349 and 33452, in form and substance and within the time and manner prescribed by Community Redevelopment Law, that the Agency and this Council would conduct a joint public hearing on the Amendment at the hour of 1:30 p.m., or as soon thereafter as it may be heard, on the 24th day of March, 2009, in the Council Chambers of the City of San José, San José, California; and

WHEREAS, the joint public hearing was held on March 24, 2009, and this Council did consider the proposed Amendment at said hearing and all oral and written evidence or testimony for or against the adoption thereof; and

WHEREAS, eight speakers appeared at the public hearing and spoke in response to the proposed Amendment; and

WHEREAS, four written objections were received at or prior to the public hearing (the "Objections"), and this Council considered such Objections and adopted written responses to such Objections prior to the final adoption of this Ordinance.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION I. Oral and written objections presented to the City Council in connection with the Amendment, having been considered by the City Council, are hereby overruled for the specific reasons set forth in the written responses to the Objections adopted by Council concurrently herewith.

SECTION II. The Amendment is found and determined to be necessary and desirable, and is hereby approved and adopted as submitted to the City Council on March 24, 2009. The Amendment is on file in the offices of the City Clerk and the Redevelopment Agency of the City of San José. The Redevelopment Plans for the Merged Project Area (as amended, including, without limitation, as amended by the Amendment) are on file in the offices of the City Clerk and the Redevelopment Agency of the City of San José, and are by this reference incorporated herein and made a part hereof.

SECTION III. It is the purpose and intent of this Council in enacting this Ordinance to provide for the continued rehabilitation and redevelopment of the Merged Project Area through all lawful and convenient means whatsoever. To this end, the Redevelopment Plans for the Merged Project Area (as amended, including, without limitation, as amended by the Amendment) are hereby designated the official Redevelopment Plans for the Merged Project Area.

SECTION IV. It is additionally the purpose and intent of this Council in enacting this Ordinance to increase the tax increment limit for the entire Merged Project Area, establish a single limit on the amount of bonded indebtedness that may be outstanding at any one time for the entire Merged Project Area, and modify the list of eligible public improvements in each Redevelopment Plan so that all Redevelopment Plans for the Merged Project Area have consistent language relating to public improvements.

SECTION V. The City Council does hereby find and determine all of the following, based on substantial evidence in the record, including, but not limited to, any evidence specified after each of the following findings, the Report to Council and all documents referenced therein, any other documents referenced herein, oral and written staff reports, and evidence and testimony received at the public hearing:

A. Significant blight remains with the Merged Project Area. This finding and determination is made based, in part, on the blight description set forth in the Report to Council including without limitation the following conditions which continue to characterize the Merged Project Area: dilapidation and deterioration; serious code violations; faulty or inadequate sewer and water utilities; obsolete buildings; undersized parcels hindering the viable use of lots and buildings; undersized lots that are in multiple ownership; stagnant or depreciated property values; hazardous waste sites; low lease rates and high vacancies; a high concentration of alcohol serving establishments; and high crime rates.

B. The remaining blight cannot be eliminated without the establishment of additional debt and the increase in the limitation on the number of dollars to be allocated to the Agency. This finding and determination is made based, in part, on the analysis in the Report to Council that the Amendment is needed in order to complete existing redevelopment program activities and eliminate remaining blight in the Merged Project Area. Without the Amendment, the Agency will have insufficient financial capacity to fund additional redevelopment activities in the Merged Project Area.

C. The continued redevelopment under the Redevelopment Plans for the Merged Project Area is in conformity with the Community Redevelopment Law and in the interests of the public peace, health, safety, and welfare. This finding and determination is made based, in part, on the goals set forth in the Redevelopment Plans and in the Five-Year Implementation Plans for the Project Areas. The existing redevelopment program activities which will continue to be implemented by the Agency to eliminate remaining blight in the Merged Project Area are: public facilities and spaces, transportation, economic development, hazardous materials and remediation, streetscapes, parking, eligible city improvements, and low and moderate affordable housing programs.

D. The proposed Amendment to the Redevelopment Plans for the Merged Project Area that will allow for the carrying out of the Redevelopment Plans is economically sound and feasible. This finding and determination is made based, in part, on the analysis contained in the Report to Council that the Amendment is needed in order to complete existing redevelopment program activities and eliminate remaining blight in the Merged Project Area. Without the Amendment, the Agency will have insufficient financial capacity to fund additional redevelopment activities in the Merged Project Area.

E. The proposed Amendment to the Redevelopment Plans for the Merged Project Area is consistent with the San José 2020 General Plan as determined by the Planning Commission on February 11, 2009.

F. The elimination of the significant remaining blight could not be reasonably expected to be accomplished by private enterprise acting alone without the aid or assistance of the Agency. This finding and determination is made based, in part, on the analysis contained in the Report to Council.

G. The proposed new limitation on the number of dollars to be allocated to the Agency is reasonably related to the proposed continuation of the implementation of the redevelopment programs under the Redevelopment Plans for the Merged Project Area, and to the ability of the Agency to continue to eliminate blight within the Merged Project Area. This finding and determination is made based, in part, on the analysis contained in the Report to Council that the Amendment is needed in order to complete existing redevelopment program activities and eliminate remaining blight in the Merged Project Area. Without the Amendment, the Agency will have insufficient financial capacity to fund additional redevelopment activities in the Merged Project Area.

H. The continued implementation of the Redevelopment Plans for the Merged Project Area will improve or alleviate the physical and economic conditions of blight in the Merged Project Area as described in the Report to Council. This finding and determination is made based, in part, on the analysis contained in the Report to Council.

SECTION VI. The notice, public hearing and other requirements of the Community Redevelopment Law have been met.

SECTION VII. Prior ordinances adopting and amending the Redevelopment Plans for the Merged Project Area are continued in full force and effect, as amended by this Ordinance.

SECTION VIII. No later than 60 days after the adoption of this Ordinance, the Executive Director or designee is hereby directed to record with the County Recorder of Santa Clara County a statement that the Redevelopment Plans for the Merged Project Area have been amended.

SECTION IX. The City Council is satisfied that permanent housing facilities will be available within three (3) years from the time occupants of the Merged Project Area

are displaced and that, pending the development of the facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

SECTION X. If any part of this Ordinance, or the Amendment which it approves, is held to be invalid for any reason, such decision shall not affect the validity of the remaining Ordinance or of the remaining Amendment, and this Council hereby declares that it would have passed the remainder of this Ordinance or approved the remainder of the Amendment, if such invalid portion thereof had been deleted.

PASSED FOR PUBLICATION of title this 7th day of April, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk