

**ORDINANCE NO. 28540**

**AN ORDINANCE OF THE CITY OF SAN JOSÉ ADOPTING THE PROPOSED SEVENTH AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE STRONG NEIGHBORHOODS INITIATIVE REDEVELOPMENT PROJECT AREA TO AUTHORIZE THE COLLECTION OF TAX INCREMENT FROM THE “DIRIDON AREA”; AND MAKING CERTAIN FINDINGS**

WHEREAS, pursuant to the California Community Redevelopment Law found at California Health and Safety Code Section 33000 *et seq.* (“Redevelopment Law”), this Council adopted the Redevelopment Plan (“Redevelopment Plan”) for the Strong Neighborhoods Initiative Redevelopment Project Area (“Project Area”); and

WHEREAS, pursuant to the Redevelopment Law, the Redevelopment Agency of the City of San José (“Agency”) has submitted to this Council for consideration a proposed seventh amendment to the Redevelopment Plan to authorize the collection of tax increment from a portion of the Project Area described as the “Diridon Area” (“Seventh Amendment”). The Diridon Area is a portion of the Project Area generally bounded by Santa Clara Street on the north, the UP railroad on the west, San Carlos Street on the south, and the Guadalupe/Los Gatos Creek and Highway 87 on the east; and

WHEREAS, the Agency has prepared and submitted to the Council a report accompanying the proposed Seventh Amendment prepared pursuant to Sections 33352 and 33457.1 of the 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 Seventh Amendment. It was determined that, amongst other things, the proposed Seventh Amendment does not warrant additional CEQA documentation beyond what has been previously prepared for the various redevelopment plans for the San José Merged Project Area (comprised of 21 different redevelopment project areas in the City of San José) (“Merged Project Area”) since the Seventh Amendment does not change the scope of any projects described within existing such 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 10; and

WHEREAS, on April 8, 2009, the City of San José’s Planning Commission determined that the Seventh Amendment is consistent with the San José 2020 General Plan; and

WHEREAS, Redevelopment Law requires that this Council consider the Seventh 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 Redevelopment Law, that the Agency and this Council would conduct a joint public hearing on the Seventh Amendment at the hour of 1:30 p.m., or as soon thereafter as it may be heard, on the 5th day of May, 2009, in the Council Chambers of the City of San José, San José, California; and

WHEREAS, the joint public hearing was held on May 5, 2009, and this Council did consider the proposed Seventh Amendment at said hearing and all oral and written evidence or testimony for or against the adoption thereof; and

WHEREAS, no speakers appeared at the public hearing to speak in response to the proposed Seventh Amendment; and

WHEREAS, no written objections were received at or prior to the public hearing.

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

SECTION I. No oral or written objections were presented to the City Council in connection with the Seventh Amendment.

SECTION II. The Seventh Amendment is found and determined to be necessary and desirable, and is hereby approved and adopted as submitted to the City Council on May 5, 2009. The Seventh Amendment is on file in the offices of the City Clerk and the Redevelopment Agency of the City of San José. The Redevelopment Plan for the Project Area (as amended, including, without limitation, as amended by the Seventh Amendment) is on file in the offices of the City Clerk and the Redevelopment Agency of the City of San José, and is 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 Project Area through all lawful and convenient means whatsoever. To this end, the Redevelopment Plan for the Project Area (as amended, including, without limitation, as amended by the Seventh Amendment) is hereby designated the official Redevelopment Plan for the Project Area.

SECTION IV. It is additionally the purpose and intent of this Council in enacting this Ordinance to authorize the collection of tax increment from the Diridon Area portion of the Project Area, as more fully described in the Seventh Amendment.

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, including the Project Area and the Diridon 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 continued redevelopment under the Redevelopment Plan for the Project Area is in conformity with the 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 Plan and in the Five-Year Implementation Plan for the Project Area.

C. The proposed Seventh Amendment to the Redevelopment Plan for the Project Area that will allow for the carrying out of the Redevelopment Plan is economically sound and feasible. This finding and determination is made based, in part, on the fact that the economic feasibility and viability of the Merged Project Area

has been established and on the analysis contained in the Report to Council that the additional tax increment revenue from the Diridon Area will provide an earlier cash flow in the near-term ensuring the continued financial feasibility of the entire Merged Project Area.

D. The proposed Seventh Amendment to the Redevelopment Plan for the Project Area is consistent with the San José 2020 General Plan as determined by the Planning Commission on April 8, 2009.

E. 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.

F. The continued implementation of the Redevelopment Plan for the Project Area will improve or alleviate the physical and economic conditions of blight in the 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 Redevelopment Law have been met.

SECTION VII. Prior ordinances adopting and amending the Redevelopment Plan for the 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 Plan for the Project Area has been amended.

SECTION IX. Within 30 days following the adoption of this Ordinance, the City Clerk or designee is hereby directed to transmit a copy of this Ordinance, a description of the Diridon Area and a map or plat of the Diridon Area to the following parties:

- (a) The auditor and assessor of Santa Clara County;
- (b) The officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting taxes, do not use the Santa Clara County assessment roll or do not collect taxes through Santa Clara County;
- (c) The governing body of each of the taxing agencies which levies taxes upon any property in the Project Area; and
- (d) The State Board of Equalization.

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SECTION X. If any part of this Ordinance, or the Seventh 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 Seventh Amendment, and this Council hereby declares that it would have passed the remainder of this Ordinance or approved the remainder of the Seventh Amendment, if such invalid portion thereof had been deleted.

PASSED FOR PUBLICATION of title this 5th day of May, 2009, by the following vote:

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

NOES: NONE.

ABSENT: CHIRCO.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk