

CITY OF COSTA MESA
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92626

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VIII-1

APPLICATION FOR APPEAL OR REHEARING

2010 JAN 26 AM 11:37

Applicant Name: Eric Bever, City Council

Address: 77 Fair Drive Costa Mesa

Phone: (714) 754-5327

Representing*: _____

REQUEST FOR: REVIEW** APPEAL REHEARING

Decision upon which appeal or rehearing is requested: (Give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.): **Resolution 10-5 pertaining to the American Recovery and Reinvestment Act-Recovery Zone (Regular City Council meeting of January 19, 2010)**

Decision by: City Council

Reason for requesting Review:

As part of the City Council's consideration of the above item, Resolution 10-5 was approved which declares "The City Council hereby finds and determines that significant poverty, unemployment, rate of home foreclosures and general distress exist in the City of Costa Mesa as a consequence of the recent housing market collapse, the impact of the national recession and the fiscal crises experienced by the State of California and local communities." The resolution goes on to state that for purposes of Sections 1400U-1 through 1400U-3 of the Internal Revenues Code of 1986 "The City Council hereby designates the entire geographic boundaries of the City of Costa Mesa as a Recovery Zone."

After careful reconsideration, I do not believe the entire City of Costa Mesa should be designated as a Recovery Zone to qualify for the Recovery Zone Facility Bond allocation. I believe such action gives the general public the idea that the City Council believes the entire community to be blighted. I likewise believe such action discourages potential businesses from locating in Costa Mesa. While there are individual properties and limited geographic areas of the community in need of private redevelopment, it is inaccurate to state that the entire City is in a state of severe economic distress. I do not support designating the entire community as being economically disadvantaged strictly for the purpose of qualifying for Federal Financing.

I request that the City Council rehear this item and take action to amend Resolution 1-5 and revise the Recovery Zone designation from the entire City to specific properties or a very limited geographic area. My rehearing request is limited strictly to the matter of the Recovery Zone designation and is not intended to disqualify eligible business from participating.

Date: JAN 26, 2010

Signature: Eric Bever

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SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal, or rehearing:

*If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.

**Review may be requested only by City Council or City Council Member



CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 19, 2010

ITEM NUMBER: IX-2

SUBJECT: AMERICAN RECOVERY AND REINVESTMENT ACT - RECOVERY ZONE

DATE: JANUARY 12, 2010

FROM: DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: KIMBERLY BRANDT, ACTING DEVELOPMENT SERVICES DIRECTOR
HILDA VETURIS, MANAGEMENT ANALYST

FOR FURTHER INFORMATION CONTACT: HILDA VETURIS (714) 754-5608

RECOMMENDATION:

Staff recommends that City Council:

- 1) Adopt attached resolution (Attachment "A") designating the entire geographic region of the City of Costa Mesa as a Recovery Zone under the American Recovery and Reinvestment Act of 2009 for the purposes of Sections 1400U-1, 1400U-2, and 1400U-3 of the Internal Revenue Codes of 1986; and
- 2) Direct staff to identify South Coast Auto Plaza and Triangle Square as potential projects for the use of the City's Recovery Zone Facility Bonds (RZFB) allocation in order to comply with the January 31, 2010 deadline; and
- 3) Direct staff to inform the public of this allocation to allow other eligible entities the opportunity to participate in this process for the potential use of the Recovery Zone funds; and
- 4) Direct staff to determine if there is an appropriate public project for the Recovery Zone Economic Development Bonds (RZEDB).

It is important to note that the two projects identified above have not been reviewed by staff, Planning Commission, or Council, nor have they received any entitlements or approvals. Also, by identifying the two properties for the potential use of the funds does not ensure approval of either of the projects.

BACKGROUND:

The American Recovery and Reinvestment Act of 2009 (ARRA) provides for federally subsidized Recovery Zone Bonds to local governments and private entities to promote job creation and economic recovery in areas affected by employment declines. The Recovery Zone Bonds are allocated by the Department of the Treasury to states based on the proportion of each state's employment decline to the national employment decline for 2008, and is further sub-allocated among counties and large municipalities with populations over 100,000. The City of Costa Mesa has received formula allocations of \$2,572,000 in RZEDB and \$3,857,000 in RZFB for areas the City designates as "Recovery Zones." Recovery Zone bonds must be used by January 1, 2011.

The designation of a "Recovery Zone" is the first step in the process for accessing the bonds. The action of designating a "Recovery Zone" does not authorize any bonds to be issued; however, the City Council must designate the area the bonds may be used in as a "Recovery Zone" and adopt a Resolution for the purposes of Sections 1400U-1, 1400U-2, and 1400U-3 of the Internal Revenue Code of 1986. Many cities and counties nationwide are designating their entire jurisdictions as "Recovery Zones." Staff recommends that the entire City be designated as a Recovery Zone. This will allow the City flexibility and the ability to take full advantage of Recovery Zone Bond opportunities.

STATEMENT OF THE ISSUE:

History:

The American Recovery and Reinvestment Act of 2009 (ARRA) provides for the issuance of Recovery Zone Bonds for the purpose of stimulating economic recovery in areas designated as "Recovery Zones." A Recovery Zone is defined as (i) any area designated by a qualifying county or large city as having significant poverty, unemployment, home foreclosure rates or general distress, (ii) any area distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, or (iii) any area for which a designation as an empowerment zone or renewal community is in effect.

The following economic indicators of economic distress are present in the City of Costa Mesa:

- The current unemployment rate has risen from 3.1 percent in May 2007 to 7.4 percent in October 2009.
- Increased number of home foreclosures.
- Sales tax revenue has decreased 21 percent for the first eleven months of 2009 compared to the first eleven months of 2008, thereby demonstrating deterioration in the auto and retail sales markets.

There are two types of Recovery Zone Bonds associated with the ARRA program:

- Recovery Zone Economic Development Bonds (RZEDB) are taxable government bonds to be issued for promoting development or other economic activity by government, including public infrastructure, construction of public facilities, or job training and educational facilities. The Federal Government will reimburse local government issuers 45% of interest paid.
- Recovery Zone Facility Bonds (RZFB) are tax-exempt, private activity bonds issued to qualifying businesses including retail centers, hotels, office, and industrial buildings.

A synopsis of Recovery Zone Bonds is outlined in Attachment "B" of this report.

The City of Costa Mesa has received formula allocations of \$2,572,000 in RZEDB and \$3,857,000 in RZFB for areas the City designates as "Recovery Zones." As a result of the citywide impact of the national recession on unemployment rates, rising home foreclosures, and the resulting overall distress to the local economy, the entire City is recommended to be designated as a Recovery Zone to ensure the City has flexibility to assist private businesses, as well as receiving attractive financial advantages, including a federal government direct subsidy of bond interest costs. This designation could enhance local business partnerships; encourage job creation in the area through business retention, expansion, and attraction; bolster retail spending thus generating sales tax revenue; increase property values; and attract external dollars to the community.

Timing and Proposed Use of Funds

At this time, two commercial property/business owners within Costa Mesa have approached City staff desiring to participate in the use of the \$3.9 million in tax-exempt bonds for the improvement of their properties. They include South Coast Auto Plaza (formerly Naber's Car Dealership) located at 2600 Harbor Boulevard, and Triangle Square located at 1870 Harbor Boulevard. Because of the timing and deadline provided by the State, City staff, Planning Commission, and Council have not reviewed these projects, nor have the projects received any entitlements or approvals.

The ARRA guidelines dictate that should the City plan to use its allocation, it must first adopt a resolution declaring an area a "Recovery Zone" and must then proceed with the preparation and submittal of a Plan of Issuance to the California Debt Limit Allocation Committee (CDLAC) by January 31, 2010. At this point, the City is simply identifying the aforementioned projects for potential participation in this program, while allowing itself time to review and analyze the projects. At the same time, staff will inform the public of this allocation to allow others who may be interested in getting involved in this process the same opportunity.

ALTERNATIVES CONSIDERED:

City Council may choose not to designate the City as a "Recovery Zone," or the City Council may choose to designate a specific area within the City. If Council chooses not to designate an area, the City automatically waives the Recovery Zone Bond allocations, which will subsequently be returned to the State.

FINANCIAL IMPACT:

There is no fiscal impact to the General Fund as a result of designating the City of Costa Mesa as a Recovery Zone.

The private activity RZFB will have no impact on the General Fund. Debt service will be paid by private borrowers and does not require a pledge of public funds for the security

of the bonds. The source of repayment for the private activity bonds will be from operating revenues of the borrowers and projects. Private activity bonds are typically publicly offered and guaranteed by a Letter of Credit issued by a commercial bank, a surety company, or privately placed with qualified institutional investors. The City of Costa Mesa will not carry any financial responsibility for the repayment of private activity RZFB.

At such time the City might issue RZEDB for public improvement projects, the debt service would be paid by General Fund, or special revenues.

LEGAL REVIEW

The form used on the attached resolution was provided by State legal staff and has been tailored by cities, counties, and agencies throughout the country according to the needs of each entity.

CONCLUSION

Based on the information provided above, Council is requested to adopt the attached resolution designating the City of Costa Mesa as a Recovery Zone, and authorize the City Manager, or his designee, to execute documents associated with the allocation and use of RZEDB and RZFB. Staff also requests further direction regarding the allocation of the RZFB funds and whether to provide this opportunity to others who may also be interested in participating in this program.

Hilda Veturis
HILDA VETURIS
Management Analyst

Kimberly Brandt
KIMBERLY BRANDT, AICP
Acting Development Services Director

DISTRIBUTION: City Manager
Assistant City Manager
City Attorney
Acting Dev. Svs. Director
Public Services Director
City Clerk
Staff (4)
File (2)

ATTACHMENTS: "A" Council Resolution Designating City of
Costa Mesa as a Recovery Zone
"B" Synopsis of Recovery Zone Bonds

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File Name:	Date:	Time:
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ATTACHMENT A
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA DESIGNATING THE CITY OF COSTA MESA AS A RECOVERY ZONE UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FOR THE PURPOSES OF SECTIONS 1400U-1, 1400U-2 AND 1400U-3 OF THE INTERNAL REVENUE CODE OF 1986

WHEREAS, on February 17, 2009, the President signed into law the American Recovery and Reinvestment Act of 2009 ("ARRA"); and

WHEREAS, Section 1401 of Title 1 of Division B of ARRA added Sections 1400U-1 through 1400U-3 to the Internal Revenue Code of 1986 ("Code"), and authorizes state and local governments to issue Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds; and

WHEREAS, Section 1400U-1 imposes a national bond volume limitation ("volume cap") of \$10 billion for Recovery Zone Economic Development Bonds and \$15 billion for Recovery Zone Facility Bonds; and

WHEREAS, the volume cap for Recovery Zone Bonds is allocated among the states and counties and large municipalities within the states based on relative declines in unemployment in 2008; and

WHEREAS, Recovery Zone Economic Development Bonds may be issued by each state and counties and large municipalities within each state before January 1, 2011 under Section 1400U-2 of the Code, as provided in Section 1400U-1 of the Code, to finance certain "qualified economic development purposes" for use within designated "Recovery Zones" as described; and

WHEREAS, pursuant to Section 1400U-1 of the Code, the term "Recovery Zone" means (i) any area designated by the City as having significant poverty, unemployment, rate of home foreclosures, or general distress, (ii) any area designated by the City as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and (iii) any area for which a designation as an empowerment zone or a renewal community is in effect; and

WHEREAS, Section 1400U-2(c) of the Code defines the term "qualified development purpose" for purposes of Section 1400U-2 of the Code to mean any expenditures for purposes of promoting development or other economic activity in a Recovery Zone, including (1) capital expenditures paid or incurred with respect to property located in the Recovery Zone, (2) expenditures for public infrastructure and construction of public facilities, and (3) expenditures for job training and educational programs; and

WHEREAS, Section 1400U-1 (b) of the Code requires, in part, that issuers "designate" eligible Recovery Zones based on certain specified criteria; and

WHEREAS, IRS Notice 2009-50 provides that for this purpose, any state, county, or large municipality that receives a volume cap allocation for Recovery Zone Economic Development Bonds may make these designations of Recovery Zones in any reasonable manner as it shall determine in good faith in its discretion; and

WHEREAS, due to the significant decline in general economic conditions, the City of Costa Mesa has encountered an increase in unemployment, an increase in home foreclosures, and has otherwise suffered general economic distress; and

WHEREAS, Section 1400U-1(a)(1)(A) of the Code provides that, subject to Section 1400U-1(a)(1)(B) of the Code (relating to minimum allocations), generally, the Secretary of the Treasury (the "Secretary") shall allocate the \$10 billion national volume cap for Recovery Zone Economic Development Bonds among the states in the proportion that each state's 2008 state employment decline bears to the aggregate of the 2008 State employment declines for all of the States; and

WHEREAS, Section 1400U-1(a)(3)(A) of the Code provides generally that each state with respect to which the allocation is made under Section 1400U-1(a)(1) of the Code is required, without discretion, to reallocate such allocation among the counties and large municipalities in such state in proportion that each county's or municipality's 2008 employment decline bears to the aggregate of 2008 employment declines for all the counties and municipalities in such state.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that significant poverty, unemployment, rate of home foreclosures, and general distress exist in the City of Costa Mesa as a consequence of the recent housing market collapse, the impact of the national recession and the fiscal crisis experienced by the State of California and local communities.

SECTION 2. For purposes of Sections 1400U-1, 1400U-2 and 1400U-3 of the Code, the City Council hereby designates the entire geographical boundaries of the City of Costa Mesa.

SECTION 3. The City Council hereby authorized the City Manager, or his designee, to take such other actions as may be necessary to ensure that the City of Costa Mesa is designated as a Recovery Zone.

SECTION 4. The City Council authorizes the City Manager, or his designee, to develop criteria for distribution of the Recovery Zone allocations.

SECTION 5. The City Council authorizes the City Manager, or his designee, to execute any documents associated with the allocation and use of the Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds.

SECTION 6. This resolution shall take effect from and after its adoption.

PASSED AND ADOPTED by the City Council of the City of Costa Mesa at a regular meeting held on the _____ day of _____, 2010.

ALLAN MANSOOR
Mayor, City of Costa Mesa

ATTEST:

CITY CLERK OF THE CITY OF COSTA MESA

ATTACHMENT B

Summary of Recovery Zone Bonds

	Recovery Zone Economic Development Bonds (Public Purposes)	Recovery Zone Facility Bonds (Private Activity)
Interest Rates	Taxable	Tax-exempt
Federal Subsidy (Tax Credits)	45% of interest	N/A
Use of Proceeds	<u>Government Purposes</u> <ul style="list-style-type: none"> • Capital expenditures • Public infrastructure • Construction of public facilities • Expenditures for job training and education programs 	<u>Private Activity</u> <ul style="list-style-type: none"> • Industrial facilities and equipment for manufacturers, assemblers, processors, warehouse and distributors • Hotels, convention centers and entertainment • Biomedical, research and development facilities • Environmental or energy efficiency companies • Commercial retail developments, e.g. shopping centers, office buildings, mixed-use, parking or other non-manufacturing projects
Prohibited Uses	<ul style="list-style-type: none"> • Private activity • Refundings 	<ul style="list-style-type: none"> • Land • Residential rental property • "Sin" uses, e.g. gambling, liquor stores, golf courses; etc.
Eligible Issuers	Cities and Counties > 100,000 population	
Allocation	Based on relative employment decline in 2008	
Volume Limit	\$10 Billion nationally	\$15 Billion nationally
Allocation – California	\$806.2 Million	\$1.2 Billion
Allocation – County of Orange	\$29,732,000	\$44,598,000
Allocation – City of Costa Mesa	\$2,572,000	\$3,857,000
Applicability Requirement	Issuer must designate a Recovery Zone	
Program Sunset	December 31, 2010	