



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: NOVEMBER 16, 2010

ITEM NUMBER:

**SUBJECT: EXTENSION OF DOWNTOWN REDEVELOPMENT PROJECT REDEVELOPMENT PLAN LIMITS**

**DATE: OCTOBER 20, 2010**

**FROM: DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: KIMBERLY BRANDT, DEVELOPMENT SERVICES DIRECTOR AND REDEVELOPMENT AGENCY EXECUTIVE DIRECTOR**

**FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5270**

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## **RECOMMENDED ACTION**

Conduct public hearing and introduce for first reading an ordinance authorizing the extension of the Costa Mesa Redevelopment Agency Downtown Redevelopment Project time limit for redevelopment activities and the time to collect tax increment by two years.

## **BACKGROUND**

The Costa Mesa Redevelopment Agency was required to make certain payments to the County's Educational Revenue Augmentation Fund ("ERAF") in fiscal years 2004-05 and 2005-06. The total ERAF amounts paid by the Agency in 2004-05 and 2005-06 were \$529,407.

The State Legislature provided for an extension of time limits for certain redevelopment plans as a result of the ERAF requirement. An amendment to the redevelopment plan for the Agency's Downtown Redevelopment Project is required to extend the time limit for both redevelopment activities and the time to collect tax increment and repay Agency indebtedness, following a public hearing.

If approved, the ordinance would extend the effectiveness of the Redevelopment Plan by two years, and extend the time that the Agency is authorized to collect tax increment by two years.

## **ANALYSIS**

Redevelopment Plans are required to contain a time limit on redevelopment plan activities and a time limit for collection of tax increment and repayment of debt.

When ERAF payments were required to be paid by redevelopment agencies in fiscal year 2004-05 and 2005-06, the State Legislature adopted Senate Bill 1096 ("SB 1096"), allowing redevelopment agencies to extend their plan time limits under certain circumstances. SB 1096 allows the City Council to adopt an ordinance extending the time limit on redevelopment activities, collection of tax increment and repayment of debt by two years based on the 2004-05 and 2005-06 ERAF payment if the redevelopment plan had less than 20 years of effectiveness remaining when the payments were made.

SB 1096 requires that the City Council hold a public hearing prior to the first reading of the ordinance extending the plan limits. It also requires that taxing entities that share in the Agency's tax increment (such as the County, school and community college districts) be notified of the date and time of the public hearing at least 30 days prior to the public hearing. Notices

were mailed to such taxing entities on October 15, 2010. The notice was also published in the Daily Pilot on November 2, 2010, at least ten days prior to the date of the public hearing as required by SB 1096.

After adoption of the ordinance, the time limits for the redevelopment project will be:

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| Plan<br><u>Effectiveness</u><br>December 24, 2016 | Collect Tax Increment<br><u>and Repay Debt</u><br>December 24, 2026 |
|---|---|

In implementing its 2009-10 budget, the State Legislature adopted Assembly Bill 26 4x ("AB 26"). AB 26 required agencies to pay certain amounts in Fiscal Year 2009-10 and 2010-11 to the County's Supplemental Educational Revenue Augmentation Fund ("SERAF"), which the State used to offset its payments to school and college district. The Agency's obligations under AB 26 totaled over \$1.7 million. AB 26 also provided for a one year extension of redevelopment plans for agencies making a SERAF payment.

The California Redevelopment Association and several cities filed a lawsuit against the State, alleging that the AB 26 demanding the SERAF payment violated several provisions of the State Constitution. A judge ruled in May 2010 in favor of the State. An appeal of the May 2010 decision has been filed. The California Redevelopment Association is recommending that agencies delay adopting a redevelopment plan extension under AB 26 until the appeal process has been completed.

**FISCAL REVIEW**

The plan extension will result in the Agency's collection of an estimated additional \$8 million of gross tax increment, which will provide \$6.4 million for repayment of Agency debt and \$1.6 million for Low and Moderate Income Housing projects or programs.

**LEGAL REVIEW**

The City Attorney has reviewed and approved the attached ordinance as to form.

**CONCLUSION**

The attached ordinance is recommended for first reading after a public hearing is conducted.

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KIMBERLY BRANDT  
Development Services Director  
And Redevelopment Agency Executive Director

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BOBBY YOUNG  
Budget and Research Officer

Attachments: 1. Proposed Ordinance

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA EXTENDING THE TIME LIMIT OF THE EFFECTIVENESS OF AND THE REDEVELOPMENT PLAN FOR THE DOWNTOWN REDEVELOPMENT PROJECT AREA; EXTENDING THE TIME LIMIT FOR PAYMENT OF INDEBTEDNESS AND RECEIPT OF PROPERTY TAXES UNDER THE REDEVELOPMENT PLAN FOR THE DOWNTOWN REDEVELOPMENT PROJECT AREA; AND MAKING OTHER FINDINGS IN CONNECTION THEREWITH

WHEREAS, the Costa Mesa Redevelopment Agency (“Agency”) is a community redevelopment agency duly created, established and authorized to transact business and exercise its powers, all under and pursuant to the California Community Redevelopment Law (Part 1 of Division 24, commencing with Section 33000, of the Health and Safety Code of the State of California) (“CRL”); and

WHEREAS, the Agency is engaged in activities necessary and appropriate to carry out the Redevelopment Plan (“Redevelopment Plan”) for the Downtown Redevelopment Project (“Project Area”) which was adopted by the Agency’s legislative body, the City Council of the City of Costa Mesa (“City Council”), by Ordinance No. 73- 74 on December 24, 1973, and thereafter amended by Ordinance No. 77-27 on July 5, 1977, Ordinance No. 80-22 on November 18, 1980, Ordinance No. 86-24 on December 15, 1986, Ordinance No. 94-15 on November 7, 1994 and Ordinance No. 03-13 on November 17, 2003; and

WHEREAS, Ordinance No. 03-13 extended the original time limit on the effectiveness of the redevelopment plan of December 24, 2013 to December 24, 2014, and also extended the period for payment of indebtedness and receipt of property taxes from December 24, 2023 to December 2024 each by one year pursuant to Section 33333.6 of the CRL as amended by SB 1045; and

WHEREAS, pursuant to CRL Section 33333.6, Ordinance No. 94-15 established a time limit on the effectiveness of the Redevelopment Plan and a time limit on the period for payment of indebtedness and receipt of property taxes under the Redevelopment Plan, which limits were subsequently amended by Ordinance No. 03-13; and

WHEREAS, Section 33681.12 was added to the CRL by Senate Bill 1096, enrolled on July 29, 2004 and chaptered on August 5, 2004 (“SB 1096”), which required the Agency during the 2004-05 and 2005-06 fiscal years to make a payment for deposit in the Orange County Educational Revenue Augmentation Fund (“ERAF”); and

WHEREAS, with respect to redevelopment plans adopted on or before December 31, 1993 for which the time limit for the effectiveness of the redevelopment plan is less than 10 years, or, under certain conditions, is more than 10 years but less than 20 years, from the last day of the fiscal year in which an ERAF payment is made pursuant to CRL Section 33681.12, Section 33333.6 of the CRL was amended by Senate Bill 1096 to provide that when a redevelopment agency is required to make a payment pursuant to Health and Safety Code

Section 33681.12, the legislative body may amend the redevelopment plans to extend by one year for each ERAF payment made pursuant to CRL Section 33681.12 the time limit on the effectiveness of the redevelopment plan and the limit to repay indebtedness or receive property taxes pursuant to CRL Section 33670 by adoption of an ordinance, without the necessity of compliance with CRL Section 33354.6 or Article 12 (commencing with CRL Section 33450) or any other provision of the CRL related to the amendment of redevelopment plans, including, but not limited to, the requirement to make the payment to affected taxing entities required by CRL Section 33607.7 provided the City Council makes certain findings with respect to the Redevelopment Plan; and

WHEREAS, the Agency made the Fiscal Year 2004-05 ERAF payment to the Orange County Educational Revenue Augmentation Fund pursuant to CRL Section 33681.12 on or before May 10, 2005; and

WHEREAS, the Agency made the Fiscal Year 2005-06 ERAF payment to the Orange County Educational Revenue Augmentation Fund pursuant to CRL Section 33681.12 on or before May 10, 2006; and

WHEREAS, the time limit for the effectiveness of the Redevelopment Plan was December 24, 2014 at the time that each payment ERAF payment was made, which time limit was less than 10 years from the end of the each fiscal year in which the ERAF payments were made; and

WHEREAS, the City Council desires to adopt this ordinance to amend and extend certain time limitations of the Redevelopment Plan, as more particularly set forth below, in accordance with CRL Section 33333.6(e)(2)(D)(i) as added by SB 1096; and

WHEREAS, the enactment of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) ("CEQA") pursuant to CEQA Guidelines Section 15378(b) (4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and

NOW THEREFORE, the City Council of the City of Cost Mesa hereby ordains as follows:

1. The current time limit on the effectiveness of the Redevelopment Plan is hereby extended by two years (from the existing time limit of December 24, 2014) to December 24, 2016, and the Costa Mesa Redevelopment Agency is hereby authorized to act with respect to the Redevelopment Plan at any time during which the Redevelopment Plan is effective.

2. The current time limit on paying indebtedness or receiving property taxes pursuant to the Redevelopment Plan and CRL is hereby extended by two years (from the existing time limit of December 24, 2024) to December 24, 2026, and the Costa Mesa Redevelopment Agency is hereby authorized to act with respect thereto during such extended period.

3. Except with respect to the amendments set forth herein, the Redevelopment Plan, as amended, is and shall remain unchanged and in full force and effect in accordance with its terms.

4. The Deputy City Clerk is hereby authorized to file a Notice of Exemption with the County of Orange pursuant to CEQA Guidelines Section 15094.

5. This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published as set forth below.

6. At least five (5) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and public locations in the City; and a notice shall be published once in the Daily Pilot, a newspaper of general circulation in the City of Costa Mesa, setting forth the title of this Ordinance, the date of its introduction and the places where this Ordinance is posted in accordance with Government Code Section 36933. Within fifteen (15) days following final adoption, a summary of the Ordinance with the names of the council members and votes shall be published in a newspaper of general circulation.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy City Clerk of the City of Costa Mesa

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

STATE OF CALIFORNIA     )  
COUNTY OF ORANGE     ) ss  
CITY OF COSTA MESA     )

I, JULIE FOLCIK, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. \_\_\_\_\_ was introduced and considered section by section at a regular meeting of said City Council held on November 16, 2010, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa