RA5

NUMBER: **192.16**

TITLE: **AN ORDINANCE OF THE CITY OF MILPITAS, CALIFORNIA, AMENDING CERTAIN TIME LIMITATIONS WITH RESPECT TO THE AMENDED AND RESTATED REDEVELOPMENT PLAN FOR THE MILPITAS REDEVELOPMENT PROJECT NO. 1**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, 2006, upon motion by Councilmember _____ and was adopted (second reading) by the City Council at its meeting of _____, 2006, upon motion by Councilmember _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

WHEREAS, the City Council of the City of Milpitas (the "**City Council**"), originally approved and adopted the Redevelopment Plan for the Milpitas Redevelopment Project No. 1 (the "**Original Project Area**") on September 21, 1976, by Ordinance No. 192; and

WHEREAS, such redevelopment plan was subsequently amended by the following ordinances: Ordinance No. 192.1 adopted on September 4, 1979 adding approximately 483 acres ("**Amendment Area No. 1**") to the Original Project Area; Ordinance No. 192.2 adopted on May 4, 1982 adding approximately 479 acres ("**Amendment Area No. 2**") to the Original Project Area; Ordinance No. 192.3 adopted on November 27, 1984; Ordinance No. 192.4 adopted on December 9, 1986; Ordinance No. 192.6A adopted on April 16, 1991; Ordinance No. 192.9 adopted on December 9, 1994; Ordinance No. 192.11 adopted on October 15, 1996; Ordinance No. 192.14 adopted on June 17, 2003 adding approximately 691 acres ("**Midtown Added Area**") to the Original Project Area; and Ordinance 192.15 adopted on October 7, 2003, (as so amended, hereafter, the "**Redevelopment Plan**"); and

WHEREAS, the Redevelopment Plan contains certain time limitations on the effectiveness of the Redevelopment Plan and the Agency's ability to receive tax increment revenue to repay Agency indebtedness incurred to carry out redevelopment activities within the Original Project Area, Amendment Area No. 1, Amendment Area No. 2 and the Midtown Added Area; and

WHEREAS, the Redevelopment Agency of the City of Milpitas, California (the "**Agency**"), has been designated as the official redevelopment agency in the City of Milpitas to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, effective August, 2004, SB 1096 added Section 33681.12 to the Health and Safety Code, pursuant to which the Agency is required to make payments during the 2004-05 and 2005-06 fiscal years for deposit in the Santa Clara County Educational Revenue Augmentation Fund; and

WHEREAS, SB 1096 amended Section 33333.6 of the Health and Safety Code to provide that when a redevelopment agency is required to make a payment pursuant to Section 33681.12, the legislative body may, by adoption of an ordinance, amend a redevelopment plan whose effectiveness limit expires more than ten (10) but less than twenty (20) years after the last day of the fiscal year in which the agency is required to make such payment, to extend the time limit on the effectiveness of the plan and the time limit for repayment of agency indebtedness and receipt of tax increment by one year for each of the years in which the Section 33681.12 payment is required, provided that the legislative body determines that (i) the agency is in compliance with the requirements set forth in Health and Safety Code Section 33334.2 relating to the set-aside and use of tax increment funds for low- and moderate-income housing, (ii) the agency has adopted an implementation plan in accordance with Health and Safety Code Section 33490, (iii) the agency is in compliance with the requirements set forth in Health and Safety Code Section 33413 relating to inclusionary and replacement housing production; (iv) the agency is not subject to sanctions for failure to expend, encumber or disburse an excess low- and moderate-income housing fund surplus; and (v) the funds used to make the payments required by Section 33681.12 would otherwise have been used to pay the cost of projects and activities necessary to carry out the redevelopment plan; and

WHEREAS, SB 1096 further amended Section 33333.6 of the Health and Safety Code to provide that in adopting an ordinance pursuant to the foregoing authority, neither the legislative body nor the redevelopment agency is required to follow the procedural requirements ordinarily required for the amendment of redevelopment plans; however, the ordinance must be adopted at a public hearing, notice of which has been mailed to all affected taxing entities not less than 30 days prior to the hearing and published not less than ten days prior to the hearing; and

WHEREAS, the effectiveness of the Redevelopment Plan expires in 2017 for the Original Project Area, in 2020 for Amendment Area No. 1 and in 2023 for Amendment Area No. 2, and therefore SB 1096 permits an extension to the time limit for plan effectiveness and payment of indebtedness with tax increment for such areas; and

WHEREAS, the City Council and the Agency have complied with all applicable notice and hearing requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILPITAS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council hereby finds that: (i) the Agency is in compliance with the requirements set forth in Health and Safety Code Section 33334.2 relating to the set-aside and use of tax increment funds for low- and moderate-income housing, (ii) the Agency has adopted an implementation plan in accordance with Health and Safety Code Section 33490, (iii) the Agency is in compliance with the requirements set forth in Health and Safety Code Section 33413 relating to inclusionary and replacement housing production; (iv) the Agency is not subject to sanctions for failure to expend, encumber or disburse an excess low- and moderate-income housing fund surplus; and (v) the funds used to make the payments required by Section 33681.12 would otherwise have been used to pay the cost of projects and activities necessary to carry out the Redevelopment Plan.

Section 2. The time limit on the effectiveness of the Redevelopment Plan, as set forth in Section 800 of the Redevelopment Plan is hereby amended to read as follows:

> Except for the non-discrimination and non-segregation provisions imposed by the Agency which shall run in perpetuity, and the affordable housing covenants imposed by the Agency which shall continue in effect for a period as may be determined and specified by the Agency, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective until September 21, 2019 for the Original Project Area, September 4, 2022 for Amendment Area No. 1, May 4, 2025 for Amendment Area No. 2, and June 17, 2034 for Midtown Added Area; provided, however, that, subject to the limitations and exceptions thereto set forth in Section 505 of this Plan, the Agency may issue bonds and incur obligations pursuant to this Plan which extend beyond the termination date, and in such event, this Plan shall continue in effect for the purpose of repaying such bonds or other obligations until the date of retirement of such bonds or other obligations.

Section 3. The time limit on the receipt of property taxes and repayment of indebtedness pursuant to Health and Safety Code section 33670 and Section 502 of the

Redevelopment Plan, as set forth in Section 505 of the Redevelopment Plan is hereby amended to read as follows:

> The Agency may not receive and shall not repay indebtedness with the proceeds from property taxes received pursuant to 33670 of the Community Redevelopment Law and Section 502 of this Plan beyond September 21, 2029 for the Original Project Area, September 4, 2032 for Amendment Area No. 1, May 4, 2035 for Amendment Area No. 2, and June 17, 2049 for the Midtown Added Area, except to repay debt to be paid from the Low- and Moderate-Income Housing Fund established pursuant to Section 33334.2 of the Community Redevelopment Law and Section 335 of this Plan, or debt established in order to fulfill the Agency's obligations under Section 33413 of the Community Redevelopment Law and Section 334 of this Plan.

Section 4. Ordinance Nos. 192, 192.1, 192.2, 192.3, 192.4, 192.6A, 192.9, 192.11, 192.14 and 192.15 are continued in full force and effect except as amended by this Ordinance.

Section 5. The City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same to be published once in the Milpitas Post, a newspaper of general circulation, published and circulated in the City of Milpitas and the Project Area. The City Clerk is further directed to send a certified copy of this Ordinance to the Agency.

Section 6. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 7. This Ordinance shall become effective thirty (30) days after the date of its adoption by the Milpitas City Council.

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NUMBER: 192.17

TITLE: **AN ORDINANCE OF THE CITY OF MILPITAS, CALIFORNIA, AMENDING CERTAIN TIME LIMITATIONS WITH RESPECT TO THE REDEVELOPMENT PLAN FOR THE GREAT MALL REDEVELOPMENT PROJECT**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, 2006, upon motion by Councilmember _____ and was adopted (second reading) by the City Council at its meeting of _____, 2006, upon motion by Councilmember _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

WHEREAS, the City Council of the City of Milpitas (the "**City Council**"), originally approved and adopted the Redevelopment Plan for the Great Mall Redevelopment Project (the "**Original Project Area**") on November 2, 1993, by Ordinance No. 192.8, and

WHEREAS, such redevelopment plan was subsequently amended by Ordinance No. 192.10 adopted on December 6, 1994 and by Ordinance No. 192.13 adopted October 16, 2001 adding approximately 0.86 acre ("**Added Area**") to the Original Project Area, (as so amended, hereafter, the "**Redevelopment Plan**"); and

WHEREAS, the Redevelopment Plan contains certain time limitations on the effectiveness of the Redevelopment Plan and the Agency's ability to repay Agency indebtedness incurred to carry out redevelopment activities within the Original Project Area and the Added Area; and

WHEREAS, the Redevelopment Agency of the City of Milpitas, California (the "**Agency**"), has been designated as the official redevelopment agency in the City of Milpitas to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, effective August, 2004, SB 1096 added Section 33681.12 to the Health and Safety Code, pursuant to which the Agency is required to make payments during the 2004-05 and 2005-06 fiscal years for deposit in the Santa Clara County Educational Revenue Augmentation Fund; and

WHEREAS, SB 1096 amended Section 33333.6 of the Health and Safety Code to provide that when a redevelopment agency is required to make a payment pursuant to Section 33681.12, the legislative body may, by adoption of an ordinance, amend a redevelopment plan whose effectiveness expires ten years or less from the last day of the fiscal year in which a payment pursuant to Section 33681.12 is made, to extend the time limit on the effectiveness of the plan and the time limit for repayment of agency indebtedness by one year for each of the years in which the Section 33681.12 payment is required; and

WHEREAS, SB 1096 further amended Section 33333.6 of the Health and Safety Code to provide that in adopting an ordinance pursuant to the foregoing authority, neither the legislative body nor the redevelopment agency is required to follow the procedural requirements ordinarily required for the amendment of redevelopment plans; however, the ordinance must be adopted at a public hearing, notice of which has been mailed to all affected taxing entities not less than 30 days prior to the hearing and published not less than ten days prior to the hearing; and

WHEREAS, the effectiveness of the Redevelopment Plan expires in 2008 for the Original Project Area and the Added Area, and therefore SB 1096 permits an extension to the plan effectiveness and the time limit for repayment of debt for such areas; and

WHEREAS, the City Council and the Agency have complied with all applicable notice and hearing requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILPITAS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The time limit on the effectiveness of the Redevelopment Plan, as set forth in Section 800 of the Redevelopment Plan is hereby amended to read as follows:

> Except for the nondiscrimination and nonsegregation provisions which shall run in perpetuity, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for seventeen (17) years from the date of adoption of this Plan by the City Council.

Section 2. Ordinance Nos. 192.8, 192.10, and 192.13 are continued in full force and effect except as amended by this Ordinance.

Section 3. The City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same to be published once in the Milpitas Post, a newspaper of general circulation, published and circulated in the City of Milpitas and the Project Area. The City Clerk is further directed to send a certified copy of this Ordinance to the Agency.

Section 4. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 5. This Ordinance shall become effective thirty (30) days after the date of its adoption by the Milpitas City Council.

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