

ORDINANCE NO. 397

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING THE REDEVELOPMENT PLAN FOR PROJECT AREA NUMBER TWO IN ACCORDANCE WITH HEALTH AND SAFETY CODE SECTION 33333.6

WHEREAS, the Brisbane Redevelopment Agency (the "Agency") is a public body, corporate and politic, organized and existing under the Redevelopment Law of the State of California (Part 1 of Division 24 of the Health and Safety Code of the State of California); and

WHEREAS, by enacting Ordinance No. 284 on June 14, 1982, the City Council of the City of Brisbane adopted the Redevelopment Plan for Project Area Number Two (the "Plan"); and

WHEREAS, by enacting Ordinance No. 342 on October 12, 1988, the City Council of the City of Brisbane amended the Redevelopment Plan for Project Area Number Two; and

WHEREAS, Assembly Bill 1290, which was enacted by the State of California and became effective on January 1, 1994, amended Section 33333.6 of the California Community Redevelopment Law, Health and Safety Code Section 33000 *et. seq.*, (the "Community Redevelopment Law"; unless otherwise expressly set forth or unless the context otherwise requires, all references to "Section" are Section(s) of the Community Redevelopment Law) and required, in part, that redevelopment agencies impose new time limitations upon redevelopment plans adopted prior to January 1, 1994, and further required that legislative bodies of redevelopment agencies to enact ordinances amending redevelopment plans adopted prior to January 1, 1994, to comply therewith; and

WHEREAS, Section 33333.6(a)(1) of the Community Redevelopment Law provides: "The time limit on the establishing of loans, advances, and indebtedness adopted pursuant to paragraph (2) of subdivision (a) of Section 33333.2 or paragraph (2) of subdivision (a) of Section 33333.4 shall not exceed 20 years from the adoption of the redevelopment plan or January 1, 2004, whichever is later, but does not prevent agencies from incurring debt to be paid from the Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's housing obligations under Section 33413."; and

WHEREAS, Section 33333.6(a)(2) provides: "The time limitation may be extended, only by amendment of the redevelopment plan, after the agency finds, based on substantial evidence that: (A) significant blight remains within the project area; and (B) this blight cannot be eliminated without the establishment of additional debt. However, this amended time limitation may not exceed 10 years from the time limit established pursuant to this subdivision or the time limit on the effectiveness of the plan established pursuant to subdivision (b), whichever is earlier."; and

WHEREAS, Section 33333.6 (b) provides: "The effectiveness of every redevelopment plan subject to the provisions of Section 33333.6 shall terminate at a date which shall not exceed 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness and to enforce existing covenants, contracts, or other obligations."; and

WHEREAS, Section 33333.6(c) provides that except as provided in subdivisions (g) and (h), a redevelopment agency shall not pay indebtedness or receive property taxes pursuant to

Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision (b); and

WHEREAS, Section 33333.6(e)(1) provides that unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time limit established by this section or to establish time limits that do not exceed the provisions of subdivision (a), (b), or (c); and

WHEREAS, Section 33333.6(e)(2) provides that the limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan has been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans; and

WHEREAS, Section 33333.6(g) provides: "The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit allocation of taxes to an agency to the extent required to eliminate project deficits created under subdivision (e) of Section 33320.5, subdivision (g) of Section 33334.6, or subdivision (d) of Section 33487, in accordance with the plan adopted pursuant thereto for the purpose of eliminating the deficits or to implement a replacement housing program pursuant to Section 33413. In the event of a conflict between these limitations and the obligations under Section 33334.6 or to implement a replacement housing program pursuant to Section 33413, the legislative body shall amend the ordinance adopted pursuant to this section to modify the limitations to the extent necessary to permit compliance with the plan adopted pursuant to subdivision (g) of Section 33334.6 and to allow full expenditure of moneys in the agency's Low and Moderate Income Housing Fund in accordance with Section 33334.3 or to permit implementation of the replacement housing program pursuant to Section 33413. The procedure for amending the ordinance pursuant to this subdivision shall be the same as for adopting the ordinance under subdivision (e)."; and

WHEREAS, Section 33333.6(h) provides: "This section shall not be construed to affect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement entered into pursuant to Section 33401, authorized by the legislative body, or the agency pursuant to this part, prior to January 1, 1994. Nor shall this section be construed to affect the right of an agency to receive property taxes, pursuant to Section 33670, to pay the indebtedness or other obligation."; and

WHEREAS, Section 33333.6(i) provides that a redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670, with respect to a redevelopment plan adopted prior to January 1, 1994, after the date identified in subdivision (c) or the date identified in the redevelopment plan, whichever is earlier, except as provided in paragraph (2) of subdivision (f) or in subdivision (h); and

WHEREAS, Section 33333.6(j) provides that the Legislature finds and declares that the amendments made to this section by the act that adds this subdivision are intended to add limitations to the law on and after January 1, 1994, and are not intended to change or express legislative intent with respect to the law prior to that date, and further that it is not the intent of the Legislature to affect the merits of any litigation regarding the ability of a redevelopment agency to sell bonds for a term that exceeds the limit of a redevelopment plan pursuant to law that existed prior to January 1, 1994; and

WHEREAS, under the Plan as previously adopted by the Agency, the time limitation to incur indebtedness is fifteen (15) years from the date of adoption of the Amendment to the Plan or October 12, 2003. This limitation does not currently apply to the annual administrative operating budget of the Agency.

WHEREAS, under the Plan as previously adopted by the Agency, the time limitation as to the duration of the Plan is forty-five (45) years from the date of adoption of the Plan or June 14, 2027.

WHEREAS, under the Plan as previously adopted by the Agency, there is no explicit time limitation to pay indebtedness or to receive property taxes pursuant to Section 33670.

WHEREAS, the Plan as previously adopted by the Agency currently contains certain time limitations which may not accord with those time limitations required by Section 33333.6; and

WHEREAS, the City of Brisbane (the "City") is adopting this ordinance to amend certain time limitations of the Plan, as more particularly provided below, to comply with the time limitations pursuant to Section 33333.6.

NOW THEREFORE, the City of Brisbane does ordain as follows:

Section 1. Except to the extent a longer period of time may be allowed pursuant to Section 33333.6 or other provisions of the Community Redevelopment Law, the time limitation to incur indebtedness under the Redevelopment Plan for Project Area Number Two is unchanged from October 12, 2003. Notwithstanding the limit set forth herein, the time limit for incurring loans, advances or other indebtedness for the purpose of establishing the Agency's annual operating budget shall be for the duration of the Plan.

Section 2. Except to the extent a longer period of time may be allowed pursuant to Section 33333.6 or other provisions of the Community Redevelopment Law, the time limitation as to the effectiveness of the Redevelopment Plan for Project Area Number Two shall be June 14, 2022.

Section 3. The time limitation to pay indebtedness or to receive property taxes pursuant to Section 33670 under the Plan is June 14, 2027 (five years from the date of termination of the Plan, June 14, 2022).

Section 4. No action with respect to the time limitation set forth in Section 33333.6(a)(2) is being taken at this time but the right to consider extension of the time limitation is being reserved.

Section 5. The City Council finds and determines that the amendments to the Plan as adopted by this ordinance are in compliance with the time limitations set forth in 33333.6.

Section 6. The Plan shall remain in full force and effect, unmodified except to the extent of those particular amendments expressly set forth in this Ordinance.

Section 7. The City Clerk is hereby authorized and directed to certify to the passage of this Ordinance and to cause the same to be posted in three public places within the City of Brisbane.

Section 8. This Ordinance shall be in full force and effect thirty (30) days after passage.

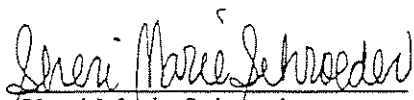
The foregoing Ordinance No. 397 was introduced at a City Council meeting of the City of Brisbane on December 19, 1994 and was adopted at a subsequent meeting of the said Council held on January 9, 1995 by the following roll call vote:

AYES: Councilmembers Conway, Johnson, Panza, Waldo, and Mayor Miller
NOES: None
ABSENT: None



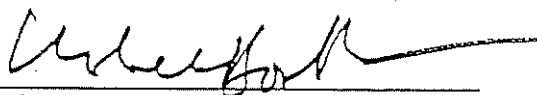
Raymond C. Miller, Mayor

ATTEST:



Sheri Marie Schroeder
Deputy City Clerk

APPROVED AS TO FORM:



Robert K. Booth, Jr., City Attorney

CITY OF BRISBANE

CERTIFICATE OF POSTING

STATE OF CALIFORNIA)
COUNTY OF SAN MATEO)

NOTICE IS HEREBY GIVEN that during the course of its regular meeting on Monday, January 9, 1995, the City Council of the City of Brisbane adopted Ordinance No. 397 entitled:

"An Ordinance of the City of Brisbane amending the Redevelopment Plan for Project Area Number Two in accordance with Health and Safety Code Section 33333.6"

The undersigned, for and on behalf of the Brisbane City Clerk, caused a copy of this Ordinance to be posted in the following places in the City of Brisbane:

Brisbane Fire Department Headquarters, 3445 Bayshore Blvd.
Brisbane City Hall Offices, 150 North Hill Drive, Suite 40
Brisbane Library, 250 Visitacion Avenue
City Hall Annex, 345 Visitacion Avenue

Dated: January 17, 1995. Said posting was completed on January 17, 1995.
Post until February 10, 1995.

I declare under penalty of perjury the foregoing is true and correct.



Sheri Marie Schroeder
Sheri Marie Schroeder
Deputy City Clerk