

OFFICE OF THE CITY CLERK
OAKLAND, CALIFORNIA
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APPROVED AS TO FORM AND LEGALITY
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL
ORDINANCE NO. 12638 C.M.S.

AN ORDINANCE ADOPTING THE SECOND AMENDMENT TO THE COLISEUM AREA REDEVELOPMENT PLAN TO EXTEND THE TIME LIMITS ON PLAN EFFECTIVENESS AND RECEIPT OF TAX INCREMENT REVENUE BY ONE YEAR

WHEREAS, the City Council adopted the Redevelopment Plan for the Coliseum Area Redevelopment Project (the "Redevelopment Plan") on July 25, 1995; and

WHEREAS, the City Council adopted the First Amendment to the Redevelopment Plan for the Coliseum Area Redevelopment Project (the "First Amendment") on July 29, 1997, (Ordinance No. 12001 C.M.S.) which added certain territory to the Coliseum Project Area (the "Coliseum First Amendment Area"); and

WHEREAS, under the Redevelopment Plan, the time limit on the effectiveness of the Redevelopment Plan as to the Coliseum Project Area, excluding the Coliseum First Amendment Area, was set at 30 years from the date of adoption of the Redevelopment Plan, i.e., July 25, 2025, and the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to the Coliseum Project Area, excluding the Coliseum First Amendment Area, was set at 45 years from the date of adoption of the Redevelopment Plan, i.e., July 25, 2040; and

WHEREAS, under the First Amendment, the time limit on the effectiveness of the Redevelopment Plan as to the Coliseum First Amendment Area was 30 years from the date of adoption of the First Amendment, i.e., July 29, 2027, and the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to the Coliseum First Amendment Area was 45 years from the date of adoption of the First Amendment, i.e., July 29, 2042; and

WHEREAS, Health and Safety Code Section 33333.2(d) authorizes the legislative body by ordinance to amend a redevelopment plan adopted after January 1, 1994, if the time limit on plan effectiveness is between 10 years and 20 years, to extend the time limits on plan effectiveness and the agency's ability to pay indebtedness and receive tax increment revenues by one year for each year the agency is required to make a payment to the Educational Revenue Augmentation Fund ("ERAF") under Health and Safety Code Section 33681.12 during fiscal years 2004-05 and 2005-06, if certain findings are made; and

WHEREAS, Health and Safety Code Section 33333.2(d)(4) provides that such an ordinance may be adopted following a noticed public hearing if the legislative body finds that funds used to make a payment to the ERAF pursuant to Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the redevelopment plan; and

WHEREAS, the Agency is required to make payments to the ERAF during fiscal year 2004-05 and fiscal year 2005-06; and

WHEREAS, the time limit on the effectiveness of the Redevelopment Plan, as to the fiscal year 2005-06 ERAF payment, is between 10 and 20 years for the Coliseum Project Area, excluding the Coliseum First Amendment Area; and

WHEREAS, the Agency wishes to amend the Redevelopment Plan to extend the time limits applicable to the Coliseum Project Area, excluding the Coliseum First Amendment Area, by one year for the fiscal year 2005-06 ERAF payment; and

WHEREAS, the Council held a public hearing on the proposed amendment, notice of which was mailed to the governing body of each affected taxing entity at least 30 days prior to the public hearing and published in a newspaper of general circulation in the community at least once, not less than 10 days prior to the date of the public hearing; and

WHEREAS, this action is not subject to the California Environmental Quality Act of 1970 ("CEQA") because it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment; now, therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. The Council hereby finds and determines that funds that will be used to make payments to the ERAF pursuant to Health and Safety Code Section 33681.12 during fiscal year fiscal year 2005-06 would otherwise be used to pay the costs of projects and activities necessary to carry out the goals and objectives of the Redevelopment Plan for the Coliseum Area Redevelopment Project.

SECTION 2. The Council hereby finds and determines the following: (a) the Redevelopment Agency is in compliance with the requirements of Health and Safety Code Section 33334.2 with respect to the Low and Moderate Income Housing Fund; (b) the Redevelopment Agency has adopted an implementation plan for the Coliseum Area Redevelopment Project in accordance with the requirements of Health and Safety Code Section 33490; (c) the Redevelopment Agency is in compliance with subdivisions (a) and (b) of Health and Safety Code Section 33413, to the extent applicable; and (d) the Redevelopment Agency is not subject to sanctions pursuant to subdivision (e) of Health and Safety Code Section 33334.12 for failure to expend, encumber, or disburse an excess surplus in the Low and Moderate Income Housing Fund.

SECTION 3. Section 502 of the Redevelopment Plan for the Coliseum Area Redevelopment Project is hereby amended to read in its entirety as follows (deletions are indicated with ~~strikeout text~~, and additions with double underlining):

B. ~~[\$502]~~ Tax Increment Funds

All taxes levied upon taxable property within the Project Area each year, by or for the benefit of the State of California, the County of Alameda, the City of Oakland, any district or ~~any other public corporation (hereinafter sometimes called "taxing agencies")~~ after the effective date of the ordinance approving this Plan (or, with respect to the territory added to the Project Area by the First Amendment to this Plan, after the effective date of the ordinance approving said First Amendment), shall be divided as follows:

1. That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the taxable property in the Project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory of the Project on the effective date of such ordinance but to which such territory is annexed or otherwise included after such effective date, the assessment roll of the County of Alameda last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the Project on said effective date).
2. Except as provided in subdivision (e) of Section 33670 or in Section 33492.15 of the Community Redevelopment Law, that portion of said levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the Agency to pay the principal of and interest on loans, monies advanced to or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Agency to finance or refinance, in whole or in part, this Project. Unless and until the total assessed valuation of the taxable property in the Project exceeds the total assessed value of the taxable property in the Project as shown by the last equalized assessment roll referred to in subdivision 1 hereof, all of the taxes levied and collected upon the taxable property in the Project shall be paid into the funds of the respective taxing agencies. When said loans, advances and indebtedness, if any, and interest thereon, have been paid, all monies thereafter received from taxes upon the taxable property in the Project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

The portion of taxes mentioned in subdivision 2 above are hereby irrevocably pledged for the payment of the principal of and interest on the advance of monies, or making of loans or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the Agency to finance or refinance the Project, in whole or in part. The Agency is authorized to make such pledges as to specific advances, loans and indebtedness as appropriate in carrying out the Project.

The Agency is authorized to issue bonds from time to time, if it deems appropriate to do so, in order to finance all or any part of the Project. Neither the members of the Agency nor any persons executing the bonds are liable personally on the bonds by reason of their issuance.

The bonds and other obligations of the Agency are not a debt of the City or the state, nor are any of its political subdivisions liable for them, nor in any event shall the bonds or obligations be payable out of any funds or properties other than those of the Agency, and such bonds and other obligations shall so state on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Agency shall not establish or incur loans, advances or indebtedness to finance in whole or in part the Project ~~after July 25, 2015~~ beyond twenty (20) years from the effective date of the ordinance adopting this Plan, except that the Agency may incur loans, advances or indebtedness ~~after July 25, 2015~~ after July 25, 2015 beyond twenty (20) years from the effective date of the ordinance adopting this Plan to be paid from the Low and Moderate Income Housing Fund as defined by the Community Redevelopment Law or to meet the Agency's replacement housing or inclusionary housing requirements as set forth in Sections 33413 and 33413.5 of the Community Redevelopment Law, or as provided below for territory added to the Project Area by Plan amendment. This limit shall not prevent the Agency from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by Section 33333.2 of the Community Redevelopment Law.

The Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Project Area after ~~July 25, 2041~~ forty-five (45) years from the effective date of the ordinance adopting this Plan, except as provided below for territory added to the Project Area by Plan amendment.

Notwithstanding any provision of this Plan to the contrary, as to that territory added to the Project Area by the First Amendment to this Plan adopted on July 29, 1997 (that territory is referred to in this Plan as the "Coliseum First Amendment Area"), the Agency shall not establish or incur loans, advances or indebtedness to finance in whole or in part the Plan within the Coliseum First Amendment Area after July 29, 2017, except that the Agency may incur loans, advances or indebtedness after July 29, 2017, to be paid from the Low and Moderate Income Housing Fund as defined by the Community Redevelopment Law or to meet the Agency's replacement housing or inclusionary housing requirements as set forth in Sections 33413 and 33413.5 of the Community Redevelopment Law, as said provisions apply to the Coliseum First Amendment Area. This limit shall not prevent the Agency from

refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by Section 33333.2 of the Community Redevelopment Law.

Notwithstanding any provision of this Plan to the contrary, as to the Coliseum First Amendment Area, the Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Coliseum First Amendment Area after July 29, 2042.

SECTION 4. Section 800 of the Redevelopment Plan for the Coliseum Area Redevelopment Project is hereby amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

VIII. §800 DURATION AND EFFECTIVENESS OF THIS PLAN

The provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, until July 25, 2026, or, as to the Coliseum First Amendment Area, until July 29, 2027~~for thirty (30) years from the date of adoption of this Plan by the City Council,~~ except that the nondiscrimination and nonsegregation provisions shall run in perpetuity. After this these time limits on the duration and effectiveness of the pPlan, the Agency shall have no authority to act pursuant to this Plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts, and except that, if the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, it shall retain its authority to implement its requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as reasonably possible.

SECTION 5. The City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

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 this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

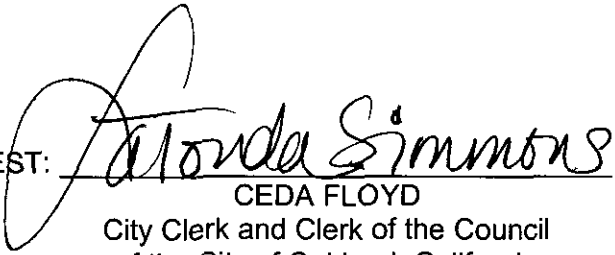
SECTION 7. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 21 2004, 2004

PASSED BY THE FOLLOWING VOTE:

AYES-	BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND PRESIDENT DE LA FUENTE - 8
NOES-	<u>0</u>
ABSENT-	<u>0</u>
ABSTENTION-	<u>0</u>

Introduction Date: DEC 07 2004

ATTEST: 
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

**AN ORDINANCE ADOPTING THE SECOND AMENDMENT TO
THE COLISEUM AREA REDEVELOPMENT PLAN TO EXTEND
THE TIME LIMITS ON PLAN EFFECTIVENESS AND RECEIPT OF
TAX INCREMENT REVENUE BY ONE YEAR**

NOTICE AND DIGEST

This ordinance amends the Coliseum Area Redevelopment Plan to extend the time limits in the Plan for Plan effectiveness and the ability of the Redevelopment Agency to pay indebtedness and receive tax increment revenues, as authorized under Health and Safety Code Section 33333.2(d), by one year for the original Project Area.