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*Dale*  
DEPUTY CITY ATTORNEY

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 12989 C.M.S.**

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**AN ORDINANCE ADOPTING THE EIGHTH  
AMENDMENT TO THE COLISEUM REDEVELOPMENT  
PLAN EXTENDING THE TIME LIMIT FOR EMINENT  
DOMAIN AUTHORITY FOR AN ADDITIONAL TWELVE  
YEARS AND SETTING A BONDED INDEBTEDNESS  
LIMIT**

**WHEREAS**, the City Council adopted the Redevelopment Plan for the Coliseum Area Redevelopment Project (the "Coliseum Redevelopment Plan") on July 25, 1995, pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.); and

**WHEREAS**, the City Council expanded the Coliseum Redevelopment Project Area through that First Amendment to the Coliseum Redevelopment Plan adopted on July 29, 1997, to incorporate certain additional territory referred to as the "Kennedy -Fruitvale Area", and set the time limit for the use of eminent domain in the Kennedy-Fruitvale Area at the same time limit as set in the original Redevelopment Plan; and

**WHEREAS**, Section 309 of the Coliseum Redevelopment Plan authorizes the Redevelopment Agency to acquire real property through the power of eminent domain except for property on which a person legally resides; and

**WHEREAS**, the Agency's eminent domain authority under the Coliseum Redevelopment Plan as amended expired 12 years from the date the Coliseum Redevelopment Plan was adopted by ordinance, that is, on July 25, 2007; and

**WHEREAS**, Section 33333.2(a)(4) of the Community Redevelopment Law allows a redevelopment plan to be amended to extend the time limit on the authority to acquire property by eminent domain, by means of an adoption of an ordinance by the legislative body upon recommendation of the agency, after the agency finds that significant blight remains within the project area, and that this blight cannot be eliminated without the use of eminent domain; and

**WHEREAS**, Section 33334.1 of the Community Redevelopment Law provides that a redevelopment plan that authorizes the issuance of tax allocation bonds establish a limit on the amount of bonded indebtedness which can be outstanding at one time; and

**WHEREAS**, while the Coliseum Redevelopment Plan itself did not include a limit on bonded indebtedness due to an oversight, the financial report included in the Report to Council prepared under Section 33352(e) when the Coliseum Redevelopment Plan was considered and adopted included a bonded indebtedness limit of \$300 million; and

**WHEREAS**, the Redevelopment Agency has submitted to the Council a proposed Eighth Amendment to the Coliseum Redevelopment Plan (the "Eighth Amendment" or the "Amendment"), attached to this Ordinance as Exhibit A, which would (1) extend the time limit for the Agency's power of eminent domain for an additional 12 years to July 25, 2019, and (2) insert into the Plan a limit on the amount of bonded indebtedness at \$300 million, as contemplated as part of the original Plan adoption; and

**WHEREAS**, that blight study prepared by Hausrath Economics Group, et al., attached to the staff report accompanying this Ordinance, studied blight conditions within the Coliseum Redevelopment Project Area and concluded that significant physical and economic blight conditions remain within the Coliseum Redevelopment Project Area, that this blight "continues to impede investment and development of property in the Coliseum Redevelopment Area", that "eminent domain authority is relevant to eliminating blight of nearly every type", and that blight conditions "justify the extension of the option of eminent domain authority for another 12 years, in order to provide the Redevelopment Agency with a full range of tools to address redevelopment needs in the project area"; and

**WHEREAS**, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

**WHEREAS**, the Council and the Agency held a joint public hearing on December 8, 2009, on adoption of the Eighth Amendment; and

**WHEREAS**, a notice of said hearing was duly and regularly published in a newspaper of general circulation in the City of Oakland, once a week for four successive weeks prior to the date of said hearing; and

**WHEREAS**, copies of the notice of joint public hearing were mailed by first-class mail to property owners, residents, and businesses in the Coliseum Redevelopment Project Area; and

**WHEREAS**, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each taxing agency which receives taxes from property in the Coliseum Redevelopment Project Area; and

**WHEREAS**, the Council has considered the report and recommendations of City staff, the blight study, the findings of the Redevelopment Agency, and the environmental analysis, has provided an opportunity for all persons to be heard, and has received and considered all evidence and testimony presented for or against any and all aspects of the Amendment; and

**WHEREAS**, it is necessary and desirable that the Amendment be adopted for the reasons set forth in this Ordinance and in the staff report accompanying this Ordinance; now, therefore

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

**SECTION 1.** The Eighth Amendment to the Redevelopment Plan for the Coliseum Area Redevelopment Project attached to this Ordinance as Exhibit A is hereby approved and adopted as an amendment to the Redevelopment Plan for the Coliseum Area Redevelopment Project.

**SECTION 2.** The City Council finds that it is necessary and desirable to amend the Redevelopment Plan to extend the time limit for the Redevelopment Agency's eminent domain authority for the reasons set forth herein and in the staff report and blight study accompanying this Ordinance.

**SECTION 3.** Based on the information contained in the blight study of the Coliseum Redevelopment Project Area attached to the staff report accompanying this Ordinance, the City Council hereby finds that significant blight remains within the Coliseum Redevelopment Project Area, and that this blight cannot be eliminated without the use of eminent domain.

**SECTION 4.** The City Council finds that it is necessary and desirable to amend the Redevelopment Plan to include a limit on bonded indebtedness consistent with the fiscal analysis performed when the Plan was adopted.

**SECTION 5.** The City Council finds that the Eighth Amendment will promote the public peace, health, safety and welfare of the City of Oakland and effectuate the purposes and policies of the Community Redevelopment Law.

**SECTION 6.** The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information provided in the report accompanying this Ordinance, that this action complies with CEQA for the following reasons, each providing a separate and independent basis: (1) it can be seen with certainty that this Eighth Amendment will have no environmental effect, pursuant to CEQA Guidelines § 15061(b)(3), since this amendment addresses only

the method of property acquisition for projects in the Coliseum Redevelopment Project Area, not the nature of the projects themselves, and thus does not increase or modify the level of development already contemplated under the Coliseum Redevelopment Plan and its implementation plan, nor does this amendment increase the regulatory powers of the Redevelopment Agency but merely provides for continuation of such powers; (2) the environmental effects associated with the level of development contemplated under the Coliseum Redevelopment Plan and its implementation plan in the Coliseum Redevelopment Project Area over the remaining life of the Redevelopment Plan has previously been adequately analyzed in the Environmental Impact Report certified by the City Council on March 24, 1998, as part of the adoption of the General Plan's Land Use and Transportation Element, and that EIR along with the environmental findings are hereby incorporated by reference; and/or (3) the environmental effects associated with the level of development contemplated under the Coliseum Redevelopment Plan and its implementation plan in the Coliseum Redevelopment Project Area over the remaining life of the Redevelopment Plan has previously been adequately analyzed in the Environmental Impact Report certified by the City Council on July 18, 1995, as part of the original adoption of the Coliseum Redevelopment Plan, and that EIR along with the environmental findings are hereby incorporated by reference.

**SECTION 7.** The City Administrator or his designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

**SECTION 8.** The City Council further finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Coliseum Area Redevelopment Project or the circumstances under which the Project is undertaken that would require major revisions of either EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects, and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3).

**SECTION 9.** The Council is satisfied that all written objections received before or at the noticed public hearing, if any, have been responded to in writing. In addition, written findings have been adopted in response to each written objection of an affected property owner or taxing entity which has been filed with the City Clerk either before or at the noticed public hearing, and all objections are hereby overruled.

**SECTION 10.** The City Administrator or his designee is hereby authorized to take any action with respect to the Eighth Amendment consistent with this Ordinance and its basic purposes.

**SECTION 11.** 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 12.** 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, JAN - 5 2010, 2009

**PASSED BY THE FOLLOWING VOTE:**

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

ATTEST:



LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date: DEC - 8 2009

Date of Attestation January 7, 2010

**ORDINANCE ADOPTING EIGHTH AMENDMENT TO  
THE COLISEUM REDEVELOPMENT PLAN**

**Exhibit A**

**EIGHTH AMENDMENT  
TO THE REDEVELOPMENT PLAN FOR THE  
COLISEUM AREA REDEVELOPMENT PROJECT**

*(attached)*

**EIGHTH AMENDMENT**  
**TO THE REDEVELOPMENT PLAN FOR THE**  
**COLSEUM AREA REDEVELOPMENT PROJECT**

**Adopted by Ordinance No. \_\_\_\_\_ C.M.S.**  
**effective \_\_\_\_\_, 2009**

**Prepared by the**  
**REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND**

## **EIGHTH AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE COLISEUM AREA REDEVELOPMENT PROJECT**

### **I. INTRODUCTION**

A Redevelopment Plan for the Coliseum Area Redevelopment Project was adopted by the Oakland City Council and the Redevelopment Agency of the City of Oakland on July 25, 1995, pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), and has been amended several times since adoption. The Redevelopment Plan for the Coliseum Area Redevelopment Project, as subsequently amended, is referred to herein as the “Coliseum Redevelopment Plan.” The Coliseum Redevelopment Project Area was expanded through that First Amendment to the Coliseum Redevelopment Plan adopted on July 29, 1997, to incorporate certain additional territory referred to as the “Kennedy – Fruitvale Area.” The First Amendment specified that the various time limits required under the Community Redevelopment Law would be the same for the Kennedy-Fruitvale Area as those time limits set in the original Redevelopment Plan.

The Redevelopment Agency’s eminent domain authority under the Coliseum Redevelopment Plan expired 12 years from the date the Coliseum Redevelopment Plan was adopted by ordinance, that is, on July 25, 2007. Section 33333.2(a) (4) of the Community Redevelopment Law allows a redevelopment plan to be amended to extend the time limit on the authority to acquire property by eminent domain.

In addition, Section 33334.1 of the Community Redevelopment Law provides that a redevelopment plan that authorizes the issuance of tax allocation bonds establish a limit on the amount of bonded indebtedness, which can be outstanding at one time. While the Coliseum Redevelopment Plan itself did not include a limit on bonded indebtedness due to an oversight, the financial report included in the Report to Council prepared under Section 33352(e) when the Coliseum Redevelopment Plan was considered and adopted included a bonded indebtedness limit of \$300 million.

### **II. AMENDMENT**

A. The second paragraph of Section 309 of the Coliseum Redevelopment Plan, Real Property, is hereby amended to read as follows (deletions are indicated by strikethrough text, and additions are indicated by double underlining):

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute this Plan for the power of eminent domain to be employed by the Agency to acquire real property in the Project Area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method, except that the Agency is not authorized to employ the power of eminent domain to acquire property on which any persons legally reside. Eminent domain proceedings, if used, must be commenced ~~within twelve (12) years from the date the ordinance adopting this Plan becomes effective~~ no later than July 25, 2019. This time limit shall apply to the Agency acquisition by eminent domain of any real property within the Project Area, including that portion of the Project Area added by that First Amendment to the Coliseum Redevelopment Plan adopted on July 29, 1997, and any other plan amendments. For



purposes of this paragraph, eminent domain proceedings shall be deemed “commenced” on the date a resolution of necessity has been adopted.

B. The third full paragraph of Section 502 of the Coliseum Redevelopment Plan, Tax Increment Funds, is hereby amended to read as follows (additions are indicated by double underlining):

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 amount of the total bonded indebtedness for the Project supported in whole or in part with tax increment revenues that may be outstanding at any one time shall not exceed \$300 million.

C. All other provisions of the Coliseum Redevelopment Plan not expressly modified or amended by the terms of this Eighth Amendment shall remain in full force and effect.

**AN ORDINANCE ADOPTING THE EIGHTH AMENDMENT TO THE COLISEUM REDEVELOPMENT PLAN EXTENDING THE TIME LIMIT FOR EMINENT DOMAIN AUTHORITY FOR AN ADDITIONAL TWELVE YEARS AND SETTING A BONDED INDEBTEDNESS LIMIT**

**NOTICE AND DIGEST**

This ordinance amends the Coliseum Area Redevelopment Plan to extend the Redevelopment Agency's eminent domain authority until July 25, 2019, and to insert a limit on bonded indebtedness into the Plan, and makes certain findings in support of such amendment.