



ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO  
PROPOSED AND INITIATED BY \_\_\_\_\_  
MOVED BY Sterling SECONDED BY Brand

BILL NO. B-56

ORDINANCE NO. 2010-58

AN ORDINANCE OF THE CITY OF FRESNO APPROVING AND ADOPTING THE NINTH AMENDMENT TO THE URBAN RENEWAL PLAN FOR THE SOUTHWEST FRESNO GENERAL NEIGHBORHOOD RENEWAL AREA PROJECT AREA TO: 1) EXTEND PLAN EFFECTIVENESS; 2) EXTEND THE PERIOD FOR DEBT REPAYMENT AND RECEIPT OF TAX INCREMENT; 3) INCREASE THE TAX INCREMENT LIMIT; AND 4) EXTEND EMINENT DOMAIN AUTHORITY

WHEREAS, the Redevelopment Agency of the City of Fresno ("Agency") is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Section 33000, *et. seq.*, ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council of the City of Fresno ("City Council"); and

WHEREAS, on January 14, 1969, by Ordinance No. 69-13, the City Council adopted a redevelopment plan entitled the Urban Renewal Plan for the Southwest Fresno General Neighborhood Renewal Area Project Area and subsequently amended the Plan eight (8) times by way of Ordinances 72-126, adopted on August 17, 1972, 83-32 adopted on March 1, 1983, 86-203 adopted on December 16, 1986, 94-114 adopted on December 6, 1994, 98-82 adopted on October 20, 1998, 2004-108 adopted on October 19, 2004, 2008-9 adopted on February 26, 2008, and 2009-15 adopted on April 7, 2009 (the "Plan"); and

WHEREAS, on March 31, 2009, the City Council and the Agency Board initiated the plan amendment process and proposed Fresno Merger No. 2 Redevelopment Project Amendments (referred to herein as the "Amendments") which encompass separate redevelopment project areas, including the Southwest Fresno General Neighborhood Renewal Area, and the Fruit/Church Redevelopment Project

Adopted 12-16-10  
Approved 1-4-11  
Effective 2-3-11

2010-58



(together the “Constituent Project Areas”) each of which is more specifically defined below, and each of which has its own redevelopment plan (together the “Constituent Redevelopment Plans”); and

WHEREAS, the purposes of the Southwest Fresno General Neighborhood Renewal Area Amendment (the “Amendment”) are to: 1) extend Plan effectiveness by 10 years; 2) extend the period for debt repayment and receipt of tax increment by 10 years; 3) increase the tax increment limit; and 4) extend eminent domain authority for a period of 12 years; and

WHEREAS, on October 21, 2010, the City Council received from the Agency the Report to the City Council on the Amendments in accordance with Section 33352 of the CRL (“Report to Council”); and

WHEREAS, the City of Fresno and Agency, acting as co-lead agencies (together the “Lead Agency”) under the California Environmental Quality Act (“CEQA”) have prepared a Final Subsequent Environmental Impact Report (“FSEIR”) to the existing 1998 environmental impact report (“1998 EIR”) for the Fresno Merger No. 2 Redevelopment Plan relating to and assessing environmental effects of the Amendments and the FSEIR dated October 2010 is inclusive of the Draft Subsequent Environmental Impact Report (“DSEIR”) dated July 2010; and

WHEREAS, the Agency and the City Council reviewed, considered and certified the FSEIR and have adopted a Statement of Findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations for the significant environmental impacts identified in the FSEIR (Resolution <sup>2010-302</sup>, incorporated herein by reference); and  
Agency Resolution 1769

WHEREAS, for any Amendments to Constituent Redevelopments Plans adopted prior to December 31, 1993, Section 33333.11(f) of the CRL requires that, 120 days prior to the Agency holding a public hearing on the Amendments, the Agency send the proposed Amendments to the Planning Commission for its report and recommendation concerning the proposed Amendments and their conformity to the City’s General Plan, pursuant to Government Code section 65402; and



WHEREAS, the public comment period of the DSEIR was duly and lawfully closed on August 21, 2010, following a 45 day public comment period during which the public was given the opportunity to comment, in writing, on the adequacy of the DSEIR; and

WHEREAS, Article 6 of the Fresno Municipal Code, Local Planning and Procedures, Sections 12-608 and 12-609, requires that the Planning Commission review proposed redevelopment plan amendments at a noticed public hearing, and at the conclusion thereof, recommend approval, disapproval, or modification of the proposed Amendments; and

WHEREAS, the Amendments were considered by the Planning Commission at a noticed meeting on October 20, 2010, and after receiving and considering the FSEIR and public testimony, the Planning Commission made its recommendation that the Amendments are in conformance with General Plan, the environmental review is consistent with the requirements of CEQA, and the proposed Amendments should be approved and adopted; and

WHEREAS, on November 10, 2010 at a regular meeting, the Housing and Community Development Commission heard the testimony of staff and interested citizens, considered the Amendments, and recommended that the City Council approve and adopt the proposed amendments to the Constituent Redevelopment Plans, as recommended by staff; and

WHEREAS, on December 2, 2010, the Agency Board adopted Resolution<sup>1766</sup> approving the proposed Five-Year Implementation Plan (2010–2015) for the Merger No. 2 Project Area comprised of the Constituent Project Areas (the “Implementation Plan”); and

WHEREAS, amendments to the Plan are subject to the provisions of Senate Bill 211, passed in 2001, which allows a redevelopment agency to extend, through an amendment, the time limits of the Plan, for up to 10 years, if certain requirements are met and findings are made, including requirements and findings that identify significant remaining blight in a project area, redevelopment activities will be focused on eradicating the remaining blight, the Agency’s Low and Moderate Income Housing Funds will be used on housing for low and very low income families, and the amount of property tax



increment revenues that are set aside in the Low and Moderate Income Housing Fund will be increased from a 20% rate to a 30% rate; and

WHEREAS, CRL Section 33451.5 provides that for redevelopment plan amendments that would change the limitation on the number of dollars of taxes which may be divided and allocated to the Agency, the Agency must provide notice, no later than 45 days prior to the joint public hearing, to the Department of Finance and the Department of Housing and Community Development of the public hearing, the date of the public hearing, and the proposed amendment, and such notice must be accompanied by the report required by Subdivision (c) of that Section; and

WHEREAS, CRL Section 33333.11(g) provides that in order to adopt a redevelopment plan amendment pursuant to 33333.10, the Agency must provide notice, no later than 45 days prior to the joint public hearing, to each affected taxing entity, the Department of Finance, the Department of Housing and Community Development, and each individual and organization that submitted comments on the preliminary report by certified mail of the public hearing, the date of the public hearing, and the proposed amendment, and such notice must be accompanied by the report required by Subdivision (h) of that Section; and

WHEREAS on September 1, 2010, notice of the joint public hearing was sent by first class mail to all property owners, residents and businesses and by certified mail to the governing body of each taxing agency which receives taxes from property in the Southwest Fresno General Neighborhood Renewal Area (the "Project Area"); and

WHEREAS, on September 1, 2010, and subsequently on October 5, 2010, notice of the joint public hearing, the date of the hearing, the Amendment and the reports required under CRL Section 33451.5 were sent by certified mail to each affected taxing entity, the Department of Finance, the Department of Housing and Community Development, and each individual and organization that submitted comments on the preliminary report; and



WHEREAS, notice of the joint public hearing was duly and regularly published in the *Fresno Bee*, a newspaper of general circulation in the City of Fresno, once a week for three successive weeks prior to the date of the hearing, on October 7, October 14 and October 21, 2010, and a copy of the notice and affidavit of publication are on file with the City Clerk and the Agency; and

WHEREAS, CRL Section 33333.10, provides that redevelopment plans adopted on or before December 31, 1993, may be amended to extend the time limit on the effectiveness of the plan and the time limit on the payment of indebtedness and receipt of property taxes for up to 10 additional years, but only after the agency finds, based on substantial evidence, that significant blight remains in the project area and the blight cannot be eliminated without extending the effectiveness of the plan and the receipt of property taxes; and

WHEREAS, a Project Area Committee was not required to be formed in connection with the Amendment because the Amendment does not contain authority for the Agency to use eminent domain to acquire properties on which any person resides; and

WHEREAS, CRL Section 33333.4 (a)(3) requires that every redevelopment plan that provides eminent domain authority must include a time limit not to exceed 12 years and that such authority may be extended by 12 years by amendment of the Plan after the Agency finds, based on substantial evidence, that significant blight remains within the Project Area and the Constituent Project Areas as a whole, and that the blight cannot be eliminated without the use of eminent domain; and

WHEREAS, the City Council has considered the Report to Council, the report and recommendation of the Planning Commission, the report and recommendation of the Housing and Community Development Commission, the Amendment, the Implementation Plan and the FSEIR; has provided an opportunity to all persons to be heard; and has received and considered all public evidence and testimony presented for or against any and all aspects of the Amendment.



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

Section 1. Recitals. The foregoing recitals are true and correct and incorporated herein.

Section 2. Findings. Based on the evidence in the record, including but not limited to the Report to Council and all of the documents referenced therein, the City Council makes the following findings in connection with the approval of the Amendment:

Section 2.1. The purposes and intent of the City Council with respect to the Amendment are to: 1) extend Plan effectiveness by 10 years; 2) extend the period for debt repayment and receipt of tax increment by 10 years; 3) increase the tax increment limit; and 4) extend eminent domain authority for a period of 12 years. The Amendment is necessary and desirable in order to complete the redevelopment of the Project Area and make possible the full achievement of the goals and objectives of the Plan, including the elimination of blighting conditions within the Project Area.

Section 2.2. Significant blight remains within the Project Area that constitutes a serious physical and economic burden on the City which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.. This finding is based on the facts, as more particularly described in the Report to Council, that the Project Area is characterized by and suffers from a combination of significant remaining physical and economic blight conditions, including the following:

- A. Buildings in which it is unsafe and unhealthy for persons to live or work, as evidenced by deteriorated and dilapidated buildings, unreinforced masonry buildings, and a disproportionate share of serious building code violation complaints.
- B. Conditions that present or substantially hinder the viable use or capacity of buildings or lots, as evidenced by substandard buildings and obsolete buildings.
- C. Depreciated or stagnant property values, as evidenced by depreciated and stagnant assessed property values, and low median property sales prices for retail, office, and industrial properties and for single-family homes.



- D. Abnormally low lease rates for office and industrial space, and an abnormally high number of vacant buildings and vacant lots.
- E. A serious lack of necessary commercial facilities that are normally found in neighborhoods, as evidenced by the serious lack of supermarkets serving the Project Area and vicinity.
- F. Serious residential overcrowding that has resulted in significant public health or safety problems, as evidenced by a relatively high percentage of over crowded units and high residential densities.
- G. A high crime rate that constitutes a serious threat to the public safety and welfare, as evidenced by higher crime rate per capita.
- H. Inadequate public improvements.

Section 2.3. The significant remaining blighting conditions are so prevalent and so substantial that they continue to cause a reduction, or lack, of proper utilization of the Project Area and affect the Constituent Project Areas as a whole to such an extent that they cannot be eliminated without extending the effectiveness time limit of the Plan and the time period to repay debt and collect tax increment from the Project Area. This finding is based on the facts, as more particularly described in the Report to Council, that the increase in the tax increment limit combined with the additional 10 years of Plan effectiveness and receipt of tax increment will provide the Agency additional non-housing funds to make needed public improvements, assist the private sector in eliminating blighting conditions, and further encourage new private sector investment. Without the additional funding provided through the Amendment, there would be a shortfall to implement non-housing programs designed to improve or alleviate the significant remaining blight in the Project Area. The Amendment will also provide the Agency with additional affordable housing set-aside funds as well as the time during which the Agency can put in place development controls to ensure that redevelopment in the Project Area is stabilized.



Section 2.4. The significant remaining blighting conditions are so prevalent and substantial that they cannot be eliminated without increasing the tax increment from the Project Area that will be allocated to the Agency. This finding is based on the facts, as more particularly described in the Report to Council, that increase in tax increment, combined with the additional 10 years of Plan effectiveness and receipt of tax increment, will provide the Agency additional non-housing funds to make needed public improvements, assist the private sector in eliminating blighting conditions and further encourage new private sector investment. Without the additional funding provided through the Amendment, there would be a shortfall to implement non-housing programs designed to improve or alleviate the significant remaining blight in the Project Area.

Section 2.5. The significant remaining blighting conditions are so prevalent and substantial that they cannot be eliminated without the use of eminent domain. This finding is based on the facts, as more particularly described in the Report to Council, that the Agency's redevelopment efforts would be impaired without the ability to assemble properties into parcels to effectuate more economically feasible development within the Project Area or to acquire properties that are vacant or underutilized.

Section 2.6. The Amendment would redevelop the Project Area in conformity with the Community Redevelopment Law and in the interests of the public peace, health, safety and welfare. This finding is based on the fact that redevelopment of the Project Area under the Plan, as amended by the Amendment, will implement the objectives of the Community Redevelopment Law by aiding in the elimination and correction of the remaining conditions of blight and deterioration in the Project Area and the Constituent Project Areas as a whole; by facilitating and continuing to provide the planning, development, redesign, clearance, reconstruction or rehabilitation of properties which need improvement; by providing additional employment opportunities or recouping lost jobs and maintaining those jobs within the Project Area; by providing for higher economic utilization of



potentially useful land and buildings; and by providing additional funds to improve and increase the supply of low- and moderate-income housing within the community.

Section 2.7. The adoption and carrying out of the Amendment is economically sound and feasible. This finding is based on the facts, as more particularly described in the Report to Council, that under the Plan, as amended by the Amendment, the funds available from tax increments and other financing sources will be sufficient to pay for the costs of the proposed public projects needed to alleviate the remaining blight conditions; the nature and timing of public redevelopment assistance will depend on the amount and availability of such financing resources, including tax increments generated by new investment in the Project Area and the Constituent Redevelopment Areas as a whole; and no public redevelopment activity will be undertaken unless the Agency can demonstrate that it has adequate revenue to finance the activity.

Section 2.8. The Amendment conforms to the General Plan of the City of Fresno, including, but not limited to, the Housing Element, which substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. This finding is based on the findings made by the Planning Commission on October 20, 2010 that the Amendment conforms to the General Plan of the City of Fresno.

Section 2.9. The carrying out of the Amendment would promote the public peace, health, safety, and welfare of the City of Fresno and would effectuate the purposes and policy of the Community Redevelopment Law. This finding is based on the facts that redevelopment, as contemplated by the Amendment, will benefit the Project Area and the Constituent Redevelopment Areas as a whole by correcting the remaining conditions of blight and by coordinating the additional public and private actions needed to stimulate development and improve the physical and economic conditions of the Project Area and the Constituent Redevelopment Areas as a whole and that the continued redevelopment of the Project Area will further promote and stimulate new private

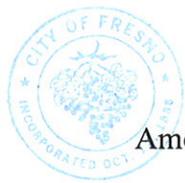


investment and redevelopment in the Project Area and the Constituent Redevelopment Areas as a whole.

Section 2.10. The condemnation of real property, as extended by the Amendment, is necessary to the execution of the Plan, and adequate provisions have been made for payment of property to be acquired as provided by law. This finding is based on the following facts: (1) in order to facilitate development of existing vacant or underutilized commercial properties, the Agency may need to assemble parcels to effectuate more cohesive and economically feasible development within the Project Area; (2) the Agency is required to comply with all state laws pertaining to the acquisition of real property by a public agency by negotiation or by condemnation, which laws require the payment of just compensation for any real property purchased by negotiation or condemnation; and (3) the Agency shall not proceed with any voluntary acquisition or condemnation of real property for which funds are not available.

Section 2.11. The Agency has a feasible method and plan for the relocation of families and persons who may be displaced, temporarily or permanently, from housing facilities in the Project Area. This finding is based on the fact that the existing Plan and the existing Agency relocation policies, as well as the Report to Council, contain the Agency's general method and plan for the relocation of families and persons who may be displaced, temporarily or permanently, from housing facilities in the Project Area, and provide for relocation assistance according to law. That general method and plan for relocation will continue to apply following the adoption of the Amendment.

Section 2.12. There are, or shall be provided, in the Project Area, Constituent Project Areas or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the Project Area, decent, safe, and sanitary dwellings equal in number to the number of and available to the displaced families and persons and reasonably accessible to their places of employment. This finding is based on the fact that pursuant to the Plan, as amended by the



Amendment, if the Agency does displace any persons or families from a dwelling unit, no person or family will be required to move from any dwelling unit in the Project Area until suitable replacement housing is available. In addition, families and persons shall not be displaced from the Project Area prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1 of the Community Redevelopment Law, and dwelling units housing persons and families of low or moderate income within the Project Area shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5, 33413 and 33413.5 of the Community Redevelopment Law.

Section 2.13. The continuation of the elimination of blight and the effective redevelopment of the Project Area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency. This finding is based on the facts, as more particularly described in the Report to Council, that higher costs and more significant risks are associated with development in a blighted area such as the Project Area, available governmental actions and resources have been and are insufficient to address remaining blighting conditions and the cost and risk to private enterprise is too great.

Section 2.14. The time limitations contained in the Amendment are reasonably related to the remaining proposed projects to be implemented in the Constituent Project Areas and to the ability of the Agency to eliminate the remaining blight within the Project Area and the Constituent Project Areas as a whole. This finding is based on the fact that redevelopment depends, in large part, on private market forces beyond the control of the Agency and shorter time limitations would impair the Agency's ability to be flexible and respond to market conditions as and when appropriate and would impair the Agency's ability to maintain development standards and controls over a period of time sufficient to assure area stabilization. Shorter time limitations would also limit the revenue sources and financing capacity necessary to carry out the proposed projects in the Project Area and the Constituent Project Areas as a whole.



Section 2.15. All noncontiguous areas of the Project Area are either blighted or necessary for effective redevelopment; lands, buildings, and improvements which are not detrimental to the public health, safety, or welfare is necessary for the effective redevelopment of the Project Area; any area included in the Project Area is necessary for effective redevelopment; and none of the foregoing are included for the purposes of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion, as set forth in the Report to Council.

Section 2.16. The Project Area is predominantly urbanized as defined in subdivision (b) of CRL Section 333320.1. This finding is based on the fact, as more particularly described in the Report to Council, that more than eighty percent (80%) of the land in the Project Area has been or is developed for urban uses or is an integral part of an area developed for urban uses.

Section 2.17. The Agency has made the findings required pursuant to Health and Safety Code Section 33333.10(h).

Section 2.18 On September 1, 2010, and subsequently on October 5, 2010, Agency sent written notice to the each taxing entity, the Department of Finance, the Department of Housing and Community Development, and each individual and organization that submitted comments on the preliminary report by certified mail of the public hearing, the date of the public hearing, and the proposed Amendment, and such notice was accompanied by the reports required by CRL 33451.5(c).

Section 3. Availability of Housing. The City Council is satisfied that permanent housing facilities will be available within three years from the time occupants of the Project Area are displaced, if any, and that pending the development of such facilities, there will be available to any such displaced occupants adequate temporary housing facilities at rents comparable to those in the City of Fresno at the time of their displacement.



Section 4. Implementation of the Amendment. In order to implement and facilitate the effectuation of the Amendment, certain official actions must be taken by the City Council; accordingly the City Council hereby:

- A. pledges its cooperation in helping to carry out the Plan, as amended by the Amendment;
- B. directs the various officials, department, boards and agencies of the City of Fresno having administrative responsibilities in the Project Area likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with the Plan, as amended by the Amendment;
- C. stands ready to consider and take appropriate action on proposals and measures designed to effectuate the Plan, as amended by the Amendment; and
- D. declares its intention to undertake and complete any proceeding, including the expenditure of moneys, necessary to be carried out by the City under the provisions of the Plan, as amended by the Amendment.

Section 5. Mitigation and Monitoring. The mitigation measures and Mitigation Monitoring and Reporting Program pertaining to the Amendment, as identified in Council Resolution No. 2010-302 adopted on December 16, 2010 and Agency Resolution No. 1769, adopted on 12/16/2010, were based on consideration of the FSEIR and are incorporated and made part of the proposed Amendment.

Section 6. Affordable Housing Units. Prior to the time limit on the effectiveness of the Plan established pursuant to Sections 33333.2, 33333.6. and 33333.10 at least thirty percent (30%) of all new and substantially rehabilitated dwelling units developed by Agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than fifty percent (50%) of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.



Section 7. Housing Fund. The Agency's Low and Moderate Income Housing Fund will be used on housing for low and very low income families, and the amount of property tax increment revenues that are set aside in the Low and Moderate Income Housing Fund will be increased from a twenty percent (20%) rate to a thirty percent (30%) rate.

Section 8. Amendment of the Plan. The Plan is hereby amended as set forth below.

I. Plan Duration

IX. DURATION OF THIS PLAN

The duration of the redevelopment plan is extended as follows:

Deleted Text:

“Except the nondiscrimination and non-segregation provisions that shall run in perpetuity, this Plan shall be effective, and the documents formulated pursuant to this Plan may be made effective until January 14, 2012. Provided, however, subject to the limitations set forth in Section 502 of this Plan, the Agency may issue bonds and incur obligations pursuant to this Plan that extend beyond the termination date”. In such event, this Plan shall continue in effect to the extent necessary to permit the full repayment of such bonds or other obligations. After the effectiveness of this Plan terminates, 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, with the following exception. If the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete such housing obligations as soon as is reasonably possible.”

New Text:

“Except the nondiscrimination and non-segregation provisions that shall run in perpetuity, this Plan shall be effective, and the documents formulated pursuant to this Plan may be made effective until January 14, 2022. Provided, however, subject to the limitations set forth in Section 502 of this Plan,



the Agency may issue bonds and incur obligations pursuant to this Plan that extend beyond the termination date”. In such event, this Plan shall continue in effect to the extent necessary to permit the full repayment of such bonds or other obligations. After the effectiveness of this Plan terminates, 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, with the following exception. If the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete such housing obligations as soon as is reasonably possible.”

II. Time Limit to Pay Indebtedness or Receive Tax Increment

V. METHODS OF FINANCING THE PROJECT

The provision for the payment of indebtedness or receipt of tax increment shall be extended as follows:

Deleted Text:

“The Agency shall not receive, and shall not repay loans, advance, or other indebtedness to be paid with the proceeds of property taxes from the Project Area pursuant to Section 33670 of the Community Redevelopment Law and this Section 502 beyond January 14, 2022.”

New Text

“The Agency shall not receive, and shall not repay loans, advance, or other indebtedness to be paid with the proceeds of property taxes from the Project Area pursuant to Section 33670 of the Community Redevelopment Law and this Section 502 beyond January 14, 2032.”

III. Tax Increment Limit

V. METHODS OF FINANCING THE PROJECT

The amount of tax increment received by the Agency shall be increased as follows:



Deleted Text

“The portion of taxes divided and allocated to the Agency pursuant to subparagraph two, above, shall not exceed a cumulative total of \$113,000,000.

New Text

“The portion of taxes divided and allocated to the Agency pursuant to subparagraph two, above, shall not exceed a cumulative total of \$173,300,000.

IV. Eminent Domain

III.D. Property Acquisition

1. Real Property (paragraph 2, third sentence)

Eminent domain authority is reinstated as follows:

Deleted Text:

“The agency will commence any eminent domain proceedings within 12 years from the date that the ordinance adopting the 1998 Ordinance became effective.”

New Text:

“The agency will commence any eminent domain proceedings within 12 years from the date that the ordinance adopting this Amendment becomes effective.

Notwithstanding the foregoing or any other provision of this Plan, this Plan shall not authorize the agency to acquire by eminent domain within the Project Area, property on which any person resides.

For purposes of this Plan, “property on which any persons reside” shall mean that a person actually lives on the property, that the property is zoned for residential use, or that the residential use on the property is a legally non conforming use, as defined by the Fresno Municipal Code.”



Section 9. Certification. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Amendment.

Section 10. Effect of Amendment. It is hereby found and determined that the foregoing Amendment is necessary and desirable. Except as expressly provided in this Ordinance, the Plan, as previously amended, shall remain unchanged and in full force and effect.

Section 11. Partial Invalidity; Severability. If any part of this Ordinance or the Amendment that it approves is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance or of the Amendment, and this City Council hereby declares that it would have passed the remainder of the Ordinance or approved the remainder of the Amendment if such invalid portion thereof had been deleted.

Section 12. Notification. The Executive Director of the Agency shall notify the appropriate public entities of the adoption of this Ordinance.

Section 13. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after adoption.

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STATE OF CALIFORNIA )
COUNTY OF FRESNO ) ss.
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the City Council of the City of Fresno, at a regular meeting held on the 16th day of December, 2010.

AYES : Borgeas, Brand, Dages, Olivier, Sterling, Westerlund
NOES : None
ABSENT : Xiong
ABSTAIN : None

Mayor Approval: N/A, 2011
Mayor Approval/No Return: January 4, 2011
Mayor Veto: N/A, 2011
Council Override Vote: N/A, 2011

REBECCA E. KLISCH
City Clerk

By: Rebecca E. Klisch
Deputy 1-4-11

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

By: Douglas T. Sloan
Assistant City Attorney

Dated: December 24, 2010

SPECIAL COUNSEL

By: Adam U. Lindgren
MEYERS NAVE

Dated: December 6, 2010



\*NO RETURN\*

December 17, 2010

Council Adoption: 12/16/10  
Mayor Approval:  
Mayor Veto:  
Override Request:

TO: MAYOR ASHLEY SWEARENGIN  
FROM: REBECCA E. KLISCH, CMC  
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 12/16/10, Council adopted the attached Ordinance No. 2010-58 entitled **Adopting 9<sup>th</sup> amndmnt to Urban Renewal Plan for SW Fresno GNRA Project Area, etc.**, Item No. **11:00 A.M. #2 A-5**, by the following vote:

Ayes : Borgeas, Brand, Dages, Olivier, Sterling, Westerlund  
Noes : None  
Absent : Xiong  
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before January 3, 2011. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10<sup>th</sup> day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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**APPROVED:**

**VETOED** for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Ashley Swearengin, Mayor

Date: \_\_\_\_\_

**COUNCIL OVERRIDE ACTION:**

Date: \_\_\_\_\_

Ayes :  
Noes :  
Absent :  
Abstain :