

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO  
PROPOSED AND INITIATED BY \_\_\_\_\_  
MOVED BY Ronquillo SECONDED BY Calhoun

BILL NO. B-69

ORDINANCE NO. 2002-69

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,  
AMENDING SECTIONS 306, 309, 424, AND 504 OF THE  
REDEVELOPMENT PLAN FOR ROEDING BUSINESS PARK  
REDEVELOPMENT PROJECT

WHEREAS, July 16, 1996, the Council of the City of Fresno (the "Council") enacted Ordinance No. 96-53, adopting the Redevelopment Plan for the Roeding Business Park Redevelopment Project (the "Project"), also known as the Roeding Business Park Redevelopment Plan (the "Redevelopment Plan"); and

WHEREAS, Ordinance No. 96-53 and the Redevelopment Plan are on file at the office of the City Clerk, City Hall, 2600 Fresno Street, Fresno, California, with a Redevelopment Agency of the City of Fresno ("Agency") Report to the Council, dated May 15, 1996, and the supplement to it dated June 25, 1996, that contains the information required by Health and Safety Code Section 33352 (collectively the "1996 Report to Council"); and,

WHEREAS, Ordinance No. 96-53 includes the Council findings and determinations required by Health and Safety Code Section 33367 for adopting the Redevelopment Plan including, without limitation, that the Project is a blighted area based on facts set forth in the 1996 Report to Council; and

WHEREAS, under Section 33450 of the Community Redevelopment Law (Health and Safety Code Sections 33000-33013) (the "Redevelopment Law"),<sup>1</sup> the Council, by ordinance may amend the Redevelopment Plan any time after adopting the plan; and

<sup>1</sup> Unless otherwise stated all Section numbers herein are references to the Redevelopment Law.

Adopted 12/17/02  
Approved 12/18/02  
Effective 1/18/03

2002-69

WHEREAS, the Redevelopment Plan utilizes tax increment financing, and the proposed amendments do not amend the Redevelopment Plan to add tax increment financing, and do not amend the Redevelopment Plan to add new territory to the Project, or to increase either the limitation on the dollars allocated to the Agency or the time limit on establishing indebtedness, or to extend the duration of the Redevelopment Plan, or to merge project areas, or to add significant additional capital improvement projects, the *Agency is not required* to follow the same procedures and the *Council is not subject* to the same restrictions provided in the Redevelopment Law for adopting a redevelopment plan, as provided in Sections 33354.5 and 33354.6 thereof including, without limitation, establishing blight or continuing or remaining blight; and

WHEREAS, adopting the proposed amendment ("Plan Amendment") is subject to the noticed public hearing requirement (Sections 33451 and 33452 or 33458), and, *to the extent warranted by the proposed amendments*, the adopting ordinance shall contain the findings required under Section 33367, and the report and information required under Section 33352 shall be prepared and available to the public before the hearing on the Plan Amendment (Section 33457.1); and

WHEREAS, the findings warranted by the amendments of the Plan Amendment that will effectively add eminent domain relate to whether eminent domain is necessary for carrying out the Redevelopment Plan, and findings that provide for paying for any property, as required by law, that is acquired by eminent domain; and

WHEREAS, Redevelopment Law considers amending a plan to add eminent domain is a minor or non-major amendment under Redevelopment Law; and

WHEREAS, the previously adopted plan amendment (Ordinance 97-58) adding eminent domain excluded certain properties from the potential exercise of eminent domain; and

WHEREAS, the proposed Plan Amendment adds eminent domain to the Plan, exercisable anywhere in the Project Area; and

WHEREAS, the Court,<sup>2</sup> in the September 16, 1999 proceedings, following which the Court invalidated the prior plan amendment adding eminent domain, said that in adding eminent domain to a redevelopment plan, ". . . the minimum that would be needed is the finding of concerning (sic - should be "continuing") blight, *because in this particular case . . . some property that was blighted was exempted from eminent domain;*<sup>3</sup> and

WHEREAS, to address community and Court expressed concerns, the Agency has prepared and presented to this Council substantial evidence that, and this Council will nonetheless make findings relating to continuing or remaining blight; and

WHEREAS, additional findings warranted by the Plan Amendment may include those relating to activities and obligations associated with eminent domain, such as relocation, and housing replacement; and

WHEREAS, when the Council is also the Agency, the Council may adopt a plan amendment without Agency action, even as to certain recommendations (Section 33458); and

WHEREAS, the 1996 Report to Council included the initial implementation plan for the Project; and

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<sup>2</sup> Superior Court of the State of California, Fresno County, Central Division, Honorable Dwayne Keyes, Judge.

<sup>3</sup> Reported by Valerie Elizabeth Castanon, C.S.R., R.P.R., Certificate No. 4922.

WHEREAS, July 23, 2002, the Agency Board adopted a new Five-Year Implementation Plan ("Implementation Plan") for the Project, a copy of which is on file with the City Clerk and with the offices of the Agency; and Council, sitting as the Agency Board has reviewed and considered the information therein; and

WHEREAS, the Implementation Plan, among other things, contains sections describing how the Agency will expend the Low and Moderate Housing Set Aside Funds to meet the housing requirements of the Community Redevelopment Law; and

WHEREAS, the Redevelopment Plan adopted by Ordinance No. 96-53, Sections 306 and 309, restricts the use of eminent domain to situations of "willing seller" only; and

WHEREAS, this limitation effectively negates the power of the Agency to exercise eminent domain, and the Agency has not exercised eminent domain within the Project since its adoption; and

WHEREAS, for effective Plan implementation and so that its use may be available to the Agency for carrying out the goals and objectives of the Redevelopment Plan, the time limit for exercising such power should run from the date that the Agency may effectively exercise the power; and

WHEREAS, eminent domain, is a necessary tool for achieving the public purposes of redevelopment; and

WHEREAS, California law provides strict guidelines and limitations on any exercise of eminent domain, and adequate protection for property owners; and

WHEREAS, Section 504 of the Redevelopment Plan restricts the formation of assessment districts to situations of "willing participants" only; and,

WHEREAS, the Agency may form assessment districts under certain sections of the Streets and Highways code for certain public improvements ("Improvement Acts"), subject to certain findings required under the Community Redevelopment Law ("Law"); and

WHEREAS, the procedural and substantive requirements of the Improvement Acts and the Law provide all affected persons notice and an opportunity to be heard; and

WHEREAS, the generally accepted practice is for the sponsoring community (e.g., the City), to conduct assessment district formation proceedings; and

WHEREAS, the Redevelopment Plan, as adopted by Ordinance No. 96-53, Section 424, authorizes the City's Development Director to approve minor variations from the Redevelopment Plan; and

WHEREAS, in 1997, after adopting Ordinance No. 96-53, the Council appointed an Agency Executive Director, and the Agency adopted new or revised bylaws for administering the Agency, and under a Cooperation Agreement with the City, City staff, including a Redevelopment Administrator, were assigned to assist the Agency; and

WHEREAS, the City's Development Department Director's title was recently changed to "Planning & Development Department Director; and

WHEREAS, Section 12-606-B of the Fresno Municipal Code provides that redevelopment plan amendments shall be initiated only by the Council adopting a resolution of initiation; and,

WHEREAS, October 19, 1999, the Council adopted Resolution No. 99-300, initiating the procedures to amend the Redevelopment Plan; and,

WHEREAS, the Council has received, from the Agency, the proposed Plan Amendment for the Project, as approved by the Agency, a copy of which is on file at the

office of the City Clerk, City Hall, 2600 Fresno Street, Fresno, California, and set forth herein; and

WHEREAS, the Council has received the Agency Revised 2002 Report to the Council on the proposed Plan Amendment ("Revised 2002 Report to Council"), a copy of which is on file at the office of the City Clerk, City Hall, 2600 Fresno Street, Fresno, California; and

WHEREAS, the 1996 Report to Council contained each element required under Health and Safety Code Section 33352 for adopting the Redevelopment Plan; and

WHEREAS, the Revised 2002 Report to Council contains the elements under Health and Safety Code Section 33352 relating to adopting the Plan Amendment for the Project Area, and includes the following: (1) a restatement of the continuing reasons for selecting the Project Area; (2) a description of the physical and economic conditions that remain in the Project Area; (3) a description of specific Agency programs and projects proposed and started in the Project Area and an explanation about how the proposed and implemented programs and projects will improve or alleviate the conditions that remain in the Project Area; (4) the proposed method of financing continuing redevelopment of the Project Area, including an assessment of the economic feasibility of the Project and an explanation of why private enterprise acting alone cannot accomplish the continued elimination of blight and redevelopment of the Project Area or by the Council's use of financing alternatives other than tax increment financing; (5) a method or plan for relocating families and persons who may be temporarily or permanently displaced from housing facilities because of the Redevelopment Plan; (6) an analysis of the Preliminary Plan for the Project; (7) the report and recommendations of the Planning Commission of the City of Fresno (the "Planning Commission"); (8) a record of the summary of consultations with the Project Area

Committee; (9) a report of why a report and analysis of the county fiscal officer and a summary of consultations with affected taxing agencies for the Plan Amendment were not required; and (10) a neighborhood impact report; and

WHEREAS, Final Environmental Impact Report ("EIR") No. 10122 (State Clearinghouse No. 95113007), was prepared in conformity with State and local requirements, providing the required environmental review of the original Redevelopment Plan under the California Environmental Quality Act ("CEQA"); and,

WHEREAS, on June 18, 1996, at the conclusion of a joint public hearing on the adequacy of EIR No. 10122, the Council adopted Resolution No. 96-140, and the Agency Board adopted Resolution No. 1430, jointly certifying EIR No. 10122 with attachments; and,

WHEREAS, the Agency, as lead agency, has determined that pursuant to Section 21090 of CEQA and State CEQA Guidelines, Section 15180, that Final EIR No. 10122 adequately included and considered the impacts of redevelopment in the Project Area and imposed adequate mitigation measures, that the adoption of the Plan Amendment will not create new or additional significant environmental impacts and, as such, no supplemental EIR, negative declaration, mitigated negative declaration, EIR addendum or other subsequent report is required to be prepared and filed for approval of the Plan Amendment; and,

WHEREAS, the Project Area Committee for the Roeding Business Park Redevelopment Project (the "PAC") held duly noticed public meetings between April 12, 2001 and April 11, 2002, to consider the proposed Plan Amendment and to receive the

staff comments and hear from interested members of the public on the proposed amendments; and,

WHEREAS, at its April 11, 2002 meeting, the PAC recommended that the Council and Agency do the following on the three-part Plan Amendment: (a) not approve amending the Redevelopment Plan to effectively add eminent domain, (b) approve deleting Section 504 to remove restrictions on assessment districts, and (c) approve amending Section 424 for the Executive Director or the Redevelopment Administrator and the Planning & Development Director to approve minor plan variations; and,

WHEREAS, the Plan Amendment does not modify land use or land use policies, goals, or objectives within the Project Area and, therefore, does not affect either the 1984 Fresno General Plan (as amended) (the "1984 General Plan"), or the 2025 Fresno General Plan (the "2025 General Plan"), Planning Commission review and a finding of consistency with the General Plan is not required under Health and Safety Code Sections 33453 and 33367; and

WHEREAS, April 17, 2002, in a noticed public hearing, as required under the Local Planning and Procedures Ordinance (LPPO), the Planning Commission considered the proposed Plan Amendment, as an amendment to a specific plan, heard testimony from staff and all interested persons, made findings, and submitted its report to the Council and Agency recommending that Council approve the proposed Plan Amendment, after modifying the section on eminent domain to designate the Planning Commission as an eminent domain reviewing body, to consider and prepare recommendations to the Agency Board on any proposed resolution of necessity to initiate eminent domain before the Agency Board considers the resolution of necessity; and,



WHEREAS, adoption of the 2025 General Plan does not require further Planning Commission review under the Local Planning and Procedures Ordinance (LPPO); and

WHEREAS, the Redevelopment Plan, as a specific plan under the LPPO, under a policy stated in the 2025 General Plan, continues in effect; and

WHEREAS, April 24, 2002, in a noticed public meeting, the Housing and Community Development Commission considered the proposed Plan Amendment, and after receiving staff's report and the testimony of all interested persons, submitted its report to the Council and Agency Board recommending that the Council and Agency Board approve the Plan Amendment, as recommended by staff; and,

WHEREAS, June 18, 2002, Council and Agency Board directed that notice of the joint public hearing be mailed by certified mail to certain recipients, and to certain persons outside the Project; and

WHEREAS, July 30, 2002, at 8:30 a.m., the Council and Agency Board held a joint public hearing on the proposed Plan Amendment, received and included in the public record staff's report and materials, heard the testimony of all interested persons, and received written communications from interested persons; and

WHEREAS, the Council and Agency Board after closing the July 30, 2002 - joint public hearing, continued the matter to August 20, 2002, to deliberate the matter and adopt written findings responding to written objections to the Plan Amendment, which were received from affected property owners; and

WHEREAS, after further consideration, August 20, 2002, directed that time was needed to address concerns and objections expressed at the July 30, 2002 public meeting and expressed in writings to the Council and Agency, and directed that a second joint

public hearing be held, and that notice of the joint public hearing be mailed by certified mail to certain recipients, and to certain persons outside the Project; and

WHEREAS, pursuant to this direction from Council and Agency Board, and pursuant to Health and Safety Code Section 33452, the notices for the July 30, 2002, and the December 3, 2002, joint public hearings: (1) were duly and regularly published in The Fresno Bee, a newspaper of general circulation in the County of Fresno, once a week for three successive weeks before the date of the public hearing, and a copy of the notice and affidavit of publication are on file with the City Clerk; (2) copies of the notices were mailed certified mail, return receipt requested, to the last known address of the assessee of each parcel of land in the Project Area as shown on the last equalized assessment roll of the County of Fresno, with a statement notifying the assessee that the property is proposed to be subject to the possibility of acquisition by negotiation or condemnation under the proposed amended Redevelopment Plan; and (3) copies of the notices were mailed by certified mail, return receipt requested, to all residential and business occupants within the Project Area at least 30 days before the joint public hearing; and (4) copies of the notices were mailed by certified mail with return receipt requested to the governing body of each taxing agency, which receives taxes from property in the Project Area; and (5) pursuant to Council/Agency Board direction, copies of the notice were also mailed by first class mail to all assessee and residential and business occupants within 350 feet of the boundaries of the Project Area; and

WHEREAS, December 3, 2002, the Council and Agency Board held a joint public hearing on the proposed Plan Amendment, received and included in the public record

staff's reports and materials, heard the testimony of all interested persons, and received written communications from interested persons; and

WHEREAS, the Council has considered the report and recommendations of the Project Area Committee, the Planning Commission, and the Housing and Community Development Commission, and has considered the findings in Ordinance 96-53, the 1996 Report to Council, the Revised 2002 Report to Council, the Redevelopment Plan, the Implementation Plan, and other information presented to it and available to it, has provided an opportunity for all persons to be heard and has received and considered all evidence and statements presented for or against any aspect of the Plan Amendment, and has adopted written findings responding to the written objections to the Plan Amendment received from affected property owners or taxing entities; and,

WHEREAS, all appropriate public bodies have taken all actions required by law.

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

SECTION 1 The purposes and intent of the Council respecting the Plan Amendment are as follows: (1) to add eminent domain to the Redevelopment Plan as a Redevelopment Plan implementation tool to help eliminate significant remaining blighting influences and environmental deficiencies within the Project Area, (2) to eliminate the restriction on assessment districts from the Redevelopment Plan, and (3) to delegate authority for approving minor deviations from the Redevelopment Plan, thereby contributing to and complementing the overall goals and objectives of the Redevelopment Plan and redevelopment within the Project Area.

SECTION 2 The Council of the City of Fresno finds and determines that:

2.1 Amending the Redevelopment Plan, as set forth below, is necessary and desirable to complete redevelopment of the Project Area and to increase the probabilities of achieving the goals and objectives of the Redevelopment Plan for the Project Area.

2.2 Significant blight remains within the Project Area that cannot be eliminated without adding the power of eminent domain. The above findings are based on the facts, more particularly set forth in the Revised 2002 Report to Council, and the record including, without limitation, the following:

2.2.1 The Project Area is characterized by and suffers from a combination of significant remaining physical and economic blighting conditions including, without limitation, aged and obsolete buildings; incompatible land uses; parcels of inadequate size for proper usefulness; lots and parcels of irregular form and shape; deteriorated and dilapidated buildings; depreciated or stagnant property values or impaired investments; low lease rates and high vacancies; residential overcrowding; a high crime rate; and properties containing hazardous wastes.

2.2.2 The combination of blighting conditions referred to in paragraph 2.2.1, above are so prevalent and so substantial that it continues to cause a reduction of, or lack of, proper utilization of the Project Area and affects the Project Area as a whole to such an extent that it constitutes a serious physical and economic burden on the City that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

2.2.3 The availability of the power of eminent domain will help the Agency effectively implement the Redevelopment Plan and to carry out the goals and objectives of the Project Area by providing a necessary tool for site assembly, as needed, to complete

public improvements and to implement and continue redevelopment programs necessary to alleviate the remaining blighting conditions and to promote and stimulate new private investment in the Project Area.

2.3 Amending the Redevelopment Plan as provided in the Plan Amendment will provide additional redevelopment tools to the Agency, permitting it to 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 redeveloping the Project Area, as contemplated in the Redevelopment Plan, as amended by the Plan Amendment, will implement the objectives of the Community Redevelopment Law by helping eliminate and correct the remaining conditions of blight and deterioration in the Project Area by, without limitation, facilitating development and redevelopment, clearance, reconstruction, 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 funds to improve and increase the supply of low-and moderate-income housing within the community. This finding is based on the facts that redevelopment, as the amended Redevelopment Plan contemplates, will benefit the Project Area by correcting the remaining conditions of blight and by coordinating additional public and private actions needed to stimulate development and improve the physical and economic conditions in the Project Area, and continued redevelopment of the Project Area will further promote and stimulate new private investment and redevelopment in the Project Area.

2.4 Adopting and carrying out the Plan Amendment is economically sound and feasible. This finding is based on the facts, more particularly set forth in the Revised 2002

Report to Council, that under the Redevelopment Plan, as amended, 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 blighting conditions; the nature and timing of public redevelopment assistance will depend on the amount and availability of financing resources, including tax increments generated by new investment in the Project Area, and no public redevelopment activity will be undertaken unless the Agency can demonstrate that it has adequate revenue to finance the activity.

2.5 No finding of consistency with the General Plans is required under Health and Safety Code Sections 33453 and 33367(4). This finding is based on the fact that Plan Amendment does not include modifications to the Redevelopment Plan that will affect the 1984 or 2025 General Plan, because the amendment affects only the power of eminent domain, the limitation on assessment districts, and waivers of minor variations from the Redevelopment Plan.

2.6 The foregoing, notwithstanding, Council finds that the Plan Amendment is consistent with the 1984 and the 2025 General Plans including, without limitation, the Housing Element of the General Plans that substantially complies with state housing law, and to the corresponding Community and Specific Plans. This finding is based on the following facts: (a) the Plan Amendment does not include modifications to the Redevelopment Plan that will affect the 1984 or the 2025 General Plans, and (b) the Planning Commission Resolution 11699, and the Commission's findings therein, that the Plan Amendment is consistent with the 1984 General Plan, and (c) as to the Project Area, the 2025 General Plan contains only minor land use changes from the 1984 General Plan.

2.7 The condemnation of real property, as established in the Plan Amendment is necessary to carry out the Redevelopment Plan, and adequate provisions have been made to pay for property to be acquired, all as provided by law. This finding is based on the following facts: (a) to facilitate development of existing vacant or underutilized commercial properties, the Agency may need to assemble parcels to produce more cohesive and economically feasible development within the Project Area; (b) the Agency is required to comply with all state laws pertaining to a public agency acquiring real property, whether acquisition is by condemnation or negotiation, and these laws require paying just compensation for all real property, and (c) the Agency shall not proceed with any voluntary acquisition or with condemnation of real property for which it does not have funds available.

2.8 The Agency has a feasible method or plan for relocating any families and persons displaced temporarily or permanently from housing facilities in the Project Area. This finding is based on the fact that the existing Redevelopment Plan and the existing Agency relocation policies, the 1996 and the 2002 Reports to Council, contain and the current Implementation Plan reflects the Agency's general method and plan for relocating 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. Those methods and plans for relocation will continue to apply following adoption of the Plan Amendment.

2.9 If any residential displacement will occur, no person or family will be required to move from any dwelling unit until suitable replacement housing is available, and on testimony and other information presented, there are, or shall be provided in the project

area 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 Redevelopment Plan, as amended by the Plan Amendment, if the Agency does displace any persons or families from a dwelling unit in the Project Area, no person or family will be required to move until suitable replacement housing is available.

2.9.1 Families and persons will not be displaced before the Agency adopts a relocation plan pursuant to Sections 33411 and 33411.1 of the Community Redevelopment Law. Dwelling units housing persons and families of low or moderate income will not be removed or destroyed before the Agency adopts a replacement housing plan pursuant to Sections 33334.5, 33413, and 33413.5 of the Community Redevelopment Law.

2.10 The Plan Amendment does not add or create any noncontiguous areas to the Project Area. Therefore no finding is required under Health and Safety Code Section 33367(d)(9).

2.11 The Plan Amendment does not add territory to the Project Area. Therefore no finding is required under Health and Safety Code Section 33367(d)(10).

2.12 Private enterprise, acting alone, cannot reasonably be expected to eliminate blight and effectively redevelop the Project Area without the aid and assistance of the Agency. This finding is based on the facts, more particularly set forth in the 1996



and the 2002 Reports to Council, that higher costs and more significant risks are associated with development in a blighted area such as the Project Area.

2.13 The Project Area is predominately urbanized. This finding is based on the fact that no changes have occurred in the Project Area that would affect the 1996 finding of urbanization, based on the 1996 Report to Council, and as reflected in the Revised 2002 Report to Council.

2.14 The Plan Amendment does not propose to modify the time limitation of the Redevelopment Plan or to modify any limitation on allocation of dollars to the Agency. Therefore no finding is required under Health and Safety Code Section 33367(d)(13).

SECTION 3 The Council is satisfied that permanent housing facilities will be available within three years from the time occupants of the Project Area are displaced and that, pending the development of the facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement. This finding is based on the 1996 Report to Council, the Revised 2002 Report to Council, and on testimony and information presented.

SECTION 4 Council finds and determines that amending the Redevelopment Plan to delete the section limiting the formation of such districts to "willing participant" is necessary to permit affected property owners/voters the protections and benefits of the Improvement Acts and the Law including, without limitation, participating in any district formation, and to assure that all legal alternatives for financing public improvements may be considered in carrying out the Redevelopment Plan, and helping eliminate blight within the Project Area. This finding is based on the fact that (a) California law other than the Community Redevelopment Law governs the formation of assessment, improvement, or

special tax districts, (b) the formation of such districts is generally conducted by the sponsoring community (the City) or other public agencies, and (c) California Law contains procedures and requirements that provide notice, opportunity to be heard, and a right to vote on such matters, thereby providing adequate protection to any affected property owners in the Project Area.

SECTION 5 The Plan Amendment does not add new territory to the Project Area, create any noncontiguous project areas, amend the boundaries of the Project Area, increase either the limitation on the number of dollars to be allocated to the Agency, or the time limit on establishing loans, advances, and indebtedness, and does not lengthen the time during which the Redevelopment Plan is effective, does not merge project areas, or add significant additional capital improvement projects.

SECTION 6 Council finds and determines that the Agency's Executive Director or the City's Redevelopment Administrator, have the requisite knowledge and experience to determine, with the City's Planning & Development Director, when minor Redevelopment Plan variations are appropriate. This finding is based on the Executive Director's and the Redevelopment Administrators responsibilities for administering, coordinating, and implementing the Redevelopment Plan, as amended, and the required qualifications for the persons holding those positions.

SECTION 7 The Council finds and determines that, based on the testimony and information presented including, without limitation, the Revised 2002 Report to Council, the Agency recommended amendment to Section 306 is consistent with the amendment to Section 309 regarding eminent domain, and does not affect the 1984 or 2025 General Plans, does not constitute a substantial change that affects any master or community plan

adopted by the Planning Commission or the Council, and thus need not be submitted to Planning Commission, or any other reviewing commission or body before Council may act on the Plan Amendment.

SECTION 8 The Council is satisfied that its findings and determinations, as set forth above, are all the findings warranted under Health and Safety Code Section 33367 by the proposed Plan Amendment, and so finds.

SECTION 9 The Council is satisfied that written findings have been adopted responding to each written objection of affected property owners and any taxing entities, received before or at the noticed public hearing. Having considered all evidence and testimony presented for and against the Proposed Amendment, the Council hereby overrules all written and oral objections to the Proposed Amendments and incorporates by reference into this ordinance those findings, responding to the written objections, contained within Resolution No. ~~2002-403~~, adopted by the Council on December 17, 2002.

SECTION 10 The Council hereby amends the Roeding Business Park Redevelopment Plan as follows:

10.1 Amend Section 306, Conforming Owners, **by deleting** the last sentence thereof, recited in Exhibit B to the Redevelopment Plan, and that reads as follows: "*The exercise of the eminent domain process by the Agency shall be employed only in those cases where the situation of 'willing buyer' and 'willing seller' exists.*"

10.2 Amend Section 309, Real Property, (a) **By deleting** the initial phrase, "[e]xcept as specifically exempted herein" in the first sentence, (b) **by deleting** from the second paragraph the sentence that reads: "*The exercise of eminent domain process by the Agency shall be employed only in those cases where the situation of 'willing buyer and*

willing seller' exists," (c) **by adding**, a sentence that reads: "In such cases where a property purchase cannot be negotiated, the Agency, at its sole discretion, may acquire the property through eminent domain"; and (d) **by modifying** the last sentence thereof to read: "The exercise of its power of eminent domain must be commenced within twelve years from the date that the ordinance adopting the 2002 amendment to this Plan becomes effective," so that Section 309 reads as follows:

[§309] Real Property

The Agency may acquire, but is not required to acquire, any real property located in the Project Area by any means authorized by law.

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. In such cases where a property purchase cannot be negotiated, the Agency, at its sole discretion, may acquire the property through eminent domain. The exercise of its power of eminent domain must be commenced within twelve years from the date that the Ordinance No. ~~2002-69~~ adopting the 2002 amendment to this Plan, becomes effective.

10.3 Amend Section 424, Minor Variations, (a) **by deleting** therefrom all references to the "City's Development Department Director," and **by substituting therefor in each**

**instance**, the following words: "*Agency Executive Director or the City Redevelopment Administrator, and the City's Planning & Development Department Director.*"

10.4 Amend Section 504, Assessment Districts, **by deleting** this Section entirely. The Section being deleted, reads as follows: "*Section 504, Assessment Districts, To prevent adverse financial impacts associated with the implementation of the Redevelopment Plan, assessment, improvement, or special tax districts to implement the Redevelopment Plan's recommendations shall not be formed unless they can be legally formed with 'willing participants' only.*"

SECTION 11 To implement and facilitate carrying out the Redevelopment Plan, as amended, the Council hereby:

11.1 pledges to cooperate in helping to carry out the Redevelopment Plan, as amended;

11.2 directs the various City officials, departments, boards and agencies, having administrative responsibilities in the Project Area, to cooperate in helping to carry out the Redevelopment Plan, as amended, and to exercise their respective functions and powers in a manner consistent with the Redevelopment Plan, as amended;

11.3 stands ready to consider and take appropriate action on proposals and measures designated to carry out the Redevelopment Plan, as amended; and

11.4 declares its intention to undertake and complete any City proceeding including expending moneys that may be necessary under the Redevelopment Plan, as amended.

SECTION 12 The Redevelopment Plan, as amended by the Plan Amendment, is hereby designated as the official redevelopment plan for the Roeding Business Park

Redevelopment Project, and the redevelopment plan, as amended (hereafter the "Plan"), is incorporated by reference.

SECTION 13 The Executive Director of the Agency is hereby authorized to combine the Plan, as amended, into a single document, and said document when filed with the City Clerk and the Secretary of the Agency, shall constitute the official Plan for the Project Area.

SECTION 14 The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, and the Agency is hereby vested with the responsibility for carrying out the Plan, as amended.

SECTION 15 The City Clerk is hereby directed to record with the County Recorder of Fresno County a notice that the Plan Amendment has been approved and adopted pursuant to this Ordinance. The notice shall contain a statement that proceedings for the redevelopment of the Project Area, pursuant to the Plan, as amended by the Plan Amendment, have been instituted under the California Community Redevelopment Law.

SECTION 16 If any part of this Ordinance amending the Plan 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 Plan, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion of it had been deleted.

SECTION 9. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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CLERK'S CERTIFICATE

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 Council of the City of Fresno, California, at a regular meeting held on the 17<sup>th</sup> day of December, by the following vote:

AYES: Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea

NOES: None

ABSENT: None

ABSTAIN: None

MAYOR APPROVAL: \_\_\_\_\_ December 18 \_\_\_\_\_, 2002

MAYOR APPROVAL/NO RETURN: \_\_\_\_\_ N/A \_\_\_\_\_, 2002

MAYOR VETO: \_\_\_\_\_ N/A \_\_\_\_\_, 2002

COUNCIL OVERRIDE VOTE: \_\_\_\_\_ N/A \_\_\_\_\_, 2002

REBECCA E. KLISCH  
City Clerk

By Rebecca E. Klisch

APPROVED AS TO FORM:  
HILDA CANTÚ MONTÓY  
City Attorney

By Hilda Cantú Montóy

V8 (2/11/02)

December 18, 2002

Council Adoption: 12/17/02

TO: MAYOR ALAN AUTRY  
FROM: REBECCA E. KLISCH, City Clerk *REK*  
SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

Mayor Approval: \_\_\_\_\_  
Mayor Veto: \_\_\_\_\_  
Override Request: \_\_\_\_\_  
By: \_\_\_\_\_  
Deputy

At the Council meeting of 12/17/02, Council adopted the attached Ordinance No. 2002-69, entitled Adopting amendments to Redevelopment Plan for Roeding Bus. Park RDA Project area (8:30 a.m. A-3), by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea  
Noes : None  
Absent : None  
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 12/28/02. 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: *A*

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

*Alan Autry*  
Alan Autry, Mayor

Date: 12.18.02

COUNCIL OVERRIDE ACTION:

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

Ayes :  
Noes :  
Absent :  
Abstain :

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