

**ORDINANCE NO. 2004-050**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF SEP 28 2004**AN ORDINANCE ADOPTING THE THIRD AMENDMENT  
TO THE REDEVELOPMENT PLAN FOR THE  
RICHARDS BOULEVARD REDEVELOPMENT PROJECT**

WHEREAS, the City Council of the City of Sacramento (the "City Council") adopted the Redevelopment Plan for the Richards Boulevard Redevelopment Project (the "Redevelopment Plan") on July 17, 1990, by Ordinance No. 90-037; and

WHEREAS, the Redevelopment Plan was subsequently amended on October 4, 1994, by Ordinance No. 94-046, and on July 2, 1996, by Ordinance No. 96-038; and

WHEREAS, eminent domain authority was included in the Redevelopment Plan when it was adopted in 1990; and

WHEREAS, according to State law, eminent domain authority expires after 12 years, unless the Redevelopment Plan is amended; and

WHEREAS, the Redevelopment Agency of the City of Sacramento (the "Agency") has prepared an amendment to the Redevelopment Plan (the "Third Amendment") to re-establish for an additional twelve-year period the Agency's authority to commence eminent domain proceedings and to limit that authority to properties that are not occupied as a residence in compliance with California Community Redevelopment Law, California Health and Safety Code Sections 33000, et seq., (the "CRL"); and

WHEREAS, the Agency prepared and circulated an Initial Study and Mitigated Negative Declaration on the Third Amendment in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.), and environmental procedures adopted by the Agency pursuant thereto; and

WHEREAS, the City Council has received from the Agency the proposed Third Amendment together with the Report to City Council prepared pursuant to Section 33352 of the CRL, which includes a description and discussion of the need for extension of the eminent domain authority to remedy blight and the Initial Study and Mitigated Negative Declaration on the Third Amendment; and

WHEREAS, the City Council and the Agency held a joint public hearing on September 7, 2004, concerning the adoption of the Third Amendment and the approval of the Mitigated Negative Declaration; and

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: 2004-050  
DATE ADOPTED: SEP 28 2004

WHEREAS, notice of the joint public hearing was published in a newspaper of general circulation in the City's jurisdictional boundaries once a week for four (4) successive weeks prior to the date of the joint public hearing, and a copy of said notice and affidavit of publication are on file with the City Clerk and Secretary of the Agency; and

WHEREAS, copies of the notice of the joint public hearing were mailed by first-class mail to all residents, businesses, and property owners in the Project Area at least thirty (30) days prior to the joint public hearing; and

WHEREAS, Section 33457.1 of the CRL, provides that to the extent warranted by the proposed Third Amendment, this Ordinance shall contain the findings required by Section 33367 of the CRL; and

WHEREAS, the City Council has considered the Report to City Council, the proposed Third Amendment and its effects, and the Initial Study and Mitigated Negative Declaration; and 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 proposed Third Amendment; and

WHEREAS, on September 7, 2004, the Agency and the City Council have reviewed and considered the Mitigated Negative Declaration for the proposed Third Amendment and have determined that due to the incorporation of mitigation measures and the Mitigation Monitoring Plan therefor having been adopted and incorporated into the Redevelopment Plan, the Third Amendment will not create any significant environmental effects .

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SACRAMENTO DOES HEREBY ENACT AS FOLLOWS:

Section 1: The purpose and intent of the City Council with respect to the Project Area in connection with Third Amendment is to re-establish the Agency's existing authority to commence eminent domain proceedings upon properties within the Project Area that are not occupied as a residence for an additional 12-year period in order to allow the Agency to continue to undertake steps to eliminate blight and blighting conditions, and achieve the goals and objectives of the Redevelopment Plan.

Section 2: The City Council hereby finds and determines, based on the evidence in the record, including, but not limited to, the Agency's Report to City Council on the proposed Third Amendment, and all documents referenced therein:

- a) The Third Amendment will allow continued redevelopment to occur within the Project Area in conformity with the CRL and in the interests of the public health, safety and welfare. This finding is based upon the fact that the Third Amendment merely re-establishes the Agency's existing authority to commence eminent domain proceedings upon properties within the Project Area for an additional 12-year period, and limits that authority to property that is not occupied as a residence, without

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FOR CITY CLERK USE ONLY

ORDINANCE NO.: 2004-050

DATE ADOPTED: SEP 28 2004

affecting Project Area boundaries or previously approved public improvement projects, and thus allows the Agency to undertake needed redevelopment activities in the Project Area.

- b) The adoption and carrying out of the Third Amendment is economically sound and feasible. This finding is based on the fact that with the passage of Third Amendment, the Agency will continue to engage in activities within the financial capability of the Agency based upon the revenues that will be available to the Agency and will pursue those activities which are consistent with revenues realized after adoption of the Third Amendment.
- c) The Third Amendment conforms to the General Plan of the City of Sacramento including, but not limited to, the Housing Element thereof, 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 fact that the Amendment does not change Project Area boundaries or any land uses in the Redevelopment Plan.
- d) The carrying out of the Third Amendment will help promote the public peace, health, safety and welfare of the City of Sacramento and will effectuate the purposes and policy of the CRL. This finding is based on the fact that continuation of the redevelopment effort will benefit the Project Area and the community by allowing the Agency to correct conditions of blight and by coordinating public and private actions to stimulate development, contribute toward needed public improvements and improve the economic, and physical conditions of the Project Area and the community.
- e) The condemnation of real property, to the extent provided for in the Third Amendment, is necessary to the continued execution of the Redevelopment Plan, and adequate provisions have been made for payment for property to be acquired as provided by law. This finding is based upon the possible need to acquire blighted parcels and assemble sites for development, which will result in new economic activity in the Project Area and to prevent the recurrence of blight.

Section 3: Section 307, Property Acquisition, of the Redevelopment Plan is hereby amended to read as follows:

C. [Section 307] Property Acquisition

1. [Section 308] Acquisition of Real Property

Except as specifically exempted herein, the Agency may acquire, but is not required to acquire, any real property located in the Project Area by gift, devise, exchange, lease, purchase, eminent domain or any other lawful method.

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: 2004-050  
DATE ADOPTED: SEP 28 2004

It is in the public interest and is necessary in order to execute this Plan for the power of eminent domain to be employed by the Agency to acquire real property in all portions of the Project Area.

No eminent domain proceeding to acquire property within the Original Project Area shall be commenced after September 7, 2016, which is twelve (12) years following the eminent domain authority extension that was approved when the Plan was amended by Ordinance No, \_\_\_\_\_, adopted on September 7, 2004. Such time limit may be extended only by amendment of this Plan.

The Agency shall not have the power of eminent domain with respect to any parcel containing a structure or structures lawfully occupied at the time of proposed acquisition as the residential dwelling unit of one or more persons (including any parcel so occupied as a residential dwelling which also includes one or more non-residential structures). Notwithstanding the foregoing the Agency may with prior written consent of the affected property owner use the power of eminent domain to acquire a parcel containing an owner occupied single family residence.

The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire any other interest in real property less than a fee.

Without the consent of the owner, the Agency shall not acquire property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency shall not acquire real property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner, unless such building requires structural alteration, improvement, modernization, or rehabilitation, or the site or lot on which the building is situated requires modification in size, shape or use, or it is necessary to impose upon such property any of the standards, restrictions and controls of this Plan or of any Design Guide adopted by the Agency pursuant to this Plan, and the owner fails or refuses to participate in the Plan or in conformance with any such Design Guide by executing a participation agreement.

Section 4: In order to implement and facilitate the effectuation of the Redevelopment Plan as hereby amended, the City Council hereby: (a) restates its pledge of cooperation to the Agency in helping to carry out the Redevelopment Plan, (b) restates its request that the various

**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: 2004-050  
DATE ADOPTED: SEP 28 2004

officials, departments, boards and agencies of the City of Sacramento having administrative responsibilities in the Project Area likewise cooperate to such end and exercise their respective functions and powers in a manner consistent with the redevelopment of the Project Area, (c) reaffirms that it stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Redevelopment Plan, and (d) redeclares its intention to undertake and complete any proceeding necessary to be carried out by the City of Sacramento under the provisions of the Redevelopment Plan, as amended.

Section 5: 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 Redevelopment Plan, as amended.

Section 6: The City Clerk is hereby directed to record with the County Recorder of Sacramento County a statement that the Third Amendment has been approved in conformity with the CRL.

Section 7: This Ordinance shall be in full force and effect thirty (30) days from and after the date of final passage.

Section 8: If any part of this Ordinance, or the Third Amendment which 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 Redevelopment Plan, and the City Council hereby declares it would have passed the remainder of this Ordinance or approved the remainder of the Redevelopment Plan if such invalid portion thereof had been deleted.

**HEATHER FARGO**

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MAYOR

ATTEST:

**SHIRLEY CONCOLINO**

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CITY CLERK

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ORDINANCE NO.: 2004-050  
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