

TO: James App, City Manager

FROM: Ron Whisenand, Community Development Director

SUBJECT: Redevelopment: Ordinance and Statement to Implement SB 53 and SB 1809

DATE: May 15, 2007

Needs: For the City Council and the Redevelopment Agency to consider the following items:

- a. An ordinance to describe the Redevelopment Agency's program for acquiring real property by eminent domain.
- b. A notice, to be recorded, describing the Redevelopment Project Area and the Redevelopment Plan's policies and procedures for using eminent domain.

Facts:

1. SB 53 requires that the City Council adopt an ordinance to describe the Redevelopment Agency's program for acquiring real property by eminent domain no later than July 1, 2007. This bill also provides that the program for use of eminent domain cannot be changed without amending the Redevelopment Plan pursuant to the process set forth in Health and Safety Code Section 33450.
2. SB 1809 requires that the Redevelopment Agency record a notice describing the Redevelopment Project Area and stating that the proceedings for redevelopment of the Project Area have been instituted pursuant to the Community Redevelopment Law.
3. SB 1809 also requires that, if the Redevelopment Plan authorizes the use of eminent domain, the recorded notice must contain the following:
 - a. A prominent heading in boldface type noting that the property that is the subject of the statement is located within a redevelopment project;
 - b. A general description of the provisions of the Redevelopment Plan that authorize the use of the power of eminent domain by the Agency; and
 - c. A general description of any limitation on the use of the power of eminent domain contained in the redevelopment plan, including, without limitation, the time limit required by Health and Safety Code Section 33333.2
4. Sections 600.30 – 600.32 of the Redevelopment Plan (copies attached) contain the Redevelopment Agency's policies for the use of eminent domain. The City Attorney has prepared an ordinance and notice (attached) that incorporate the language used in these sections.
5. Following adoption of the Redevelopment Plan in 1987, the City recorded a notice describing the Redevelopment Project Area. SB 1809 imposes new requirements for the notice. Hence the attached notice includes the word "Revised" in its title.

6. The ordinance and notice do not establish new policies, but serve to communicate those policies already set forth in Sections 600.30 – 600.32 of the Redevelopment Plan, which was the subject of an Environmental Impact Report. Therefore, the ordinance and notice do not constitute a “project” that is subject to the California Environmental Quality Act.
7. The Project Area Committee met on May 2, 2007 to review the proposed ordinance and notice and unanimously recommended that the City Council adopt the attached ordinance and that the Redevelopment Agency approve the attached statement.

Analysis and

Conclusion:

SB 53 and SB 1809 serve to help inform the public about the Redevelopment Agency’s policies and procedures for the use of eminent domain. Sections 600.30 – 600.32 of the Redevelopment Plan do not advocate the use of eminent domain, but provide policies and procedures for allowing it to be used as a tool of last resort, subject to certain limitations, if needed to remove blight. The Redevelopment Agency has never used eminent domain, nor does it have any projects on the horizon in which eminent domain would be needed.

Redevelopment Law provides that the power of eminent domain shall expire 12 years after adoption or amendment of a Redevelopment Plan. Pursuant to Ordinance 786 N.S., which amended the Redevelopment Plan in 1999, eminent domain may be used until November 30, 2011, unless the Redevelopment Plan is again amended to extend this period for an additional 12 years (or less if the Redevelopment Agency so desires).

The Redevelopment Plan is not an action plan listing development projects or containing actual plans to use eminent domain. It is, rather, a description of the blighting influences in the Project Area and a catalogue of possible tools that could be used in conjunction with projects to eliminate blight.

The Redevelopment Plan is distinguished from the “Redevelopment Implementation Plan”, which is a five year action plan. The 2004 Redevelopment Implementation Plan does not list any projects to be accomplished prior to 2009 (other than use of Low and Moderate Income Housing Funds to assist development of low and moderate income housing); in the period 2004-2009, it commits the Agency to use tax increment revenues to reducing the Agency’s debt.

Policy

Reference:

California Redevelopment Law, as amended by SB 53 and SB 1809 (Statutes of 2006)

Fiscal

Impact:

The actions proposed in this staff report will have no impact to the General Fund or the Redevelopment Fund.

Options:

After accepting any public testimony on the status of the Implementation Plan, that the City Council and Redevelopment Agency take one of the following options:

- a. Redevelopment Agency Action: By voice vote, recommend that the City Council adopt the attached ordinance and direct the City Clerk to file the attached Revised Notice of Adoption of the Redevelopment Plan.

City Council Action: Introduce for first reading attached Ordinance No. XXX N.S., and set June 5, 2007 as the date for adoption of said ordinance and direct the City Clerk to file the attached Revised Notice of Adoption of the Redevelopment Plan.

- b. Amend, modify, or reject the foregoing option.

Prepared By:

Ed Gallagher
Housing Programs Manager

Attachments:

1. Draft Ordinance No. XXX N.S.
2. Revised Notice of Adoption of the Redevelopment Plan
3. Sections 600.30 – 600.32 of the Redevelopment Plan

ED\REDEV\SB 53 AND 1809\IRDA REPORT 051507

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
CONTAINING A DESCRIPTION OF THE REDEVELOPMENT AGENCY OF THE
CITY OF EL PASO DE ROBLES' PROGRAM TO ACQUIRE REAL PROPERTY BY
EMINENT DOMAIN IN THE PASO ROBLES REDEVELOPMENT PROJECT**

WHEREAS, the City Council of the City of El Paso de Robles ("City Council") adopted Ordinance No. 540 N.S. on November 30, 1987, approving and adopting the redevelopment plan for the Paso Robles Redevelopment Project ("Redevelopment Plan"); and

WHEREAS, the City Council adopted Ordinance No. 786 N.S. on January 4, 2000, approving and adopting Amendment No. 1 to the Redevelopment Plan, extending the time limit acquire property by eminent domain; and

WHEREAS, the Agency has been designated as the official redevelopment agency in the City of El Paso de Robles to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, Sections 600.30, 600.31, and 600.32 of the Redevelopment Plan contain Agency authority to acquire property by eminent domain; and

WHEREAS, Section 33342.7 of the Health and Safety Code was added by Senate Bill 53, which took effect on January 1, 2007, and requires a legislative body that adopted a redevelopment plan containing eminent domain authority before January 1, 2007, to adopt an ordinance on or before July 1, 2007, containing a description of the agency's program to acquire real property by eminent domain.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Pursuant to Section 33342.7 of the Health and Safety Code, a description of the Agency's program to acquire real property by eminent domain is set forth in Exhibit A, attached hereto and incorporated herein by this reference. The Agency's program to acquire real property by eminent domain may be amended only by amending the Redevelopment Plan pursuant to Article 12 of the Community Redevelopment Law (commencing with Health and Safety Code Section 33450).

Section 2. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 3. 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 the City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 4. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California, and cause the same to be published once in the _____, a newspaper of general circulation, published and circulated in the City of El Paso de Robles, and it will take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

DESCRIPTION OF PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN FOR THE PASO ROBLES REDEVELOPMENT PROJECT

As provided in Sections 600.30, 600.31, and 600.32 of the Redevelopment Plan for the Paso Robles Redevelopment Project ("Redevelopment Plan"), it is in the public interest, and is necessary to eliminate the conditions requiring redevelopment and to execute the Redevelopment Plan, for the Redevelopment Agency of the City of El Paso de Robles ("Agency") to have authority to employ the power of eminent domain to acquire real property within the Paso Robles Redevelopment Project Area ("Project Area").

This power is necessary because the Project Area, or portions thereof, suffers from adverse effects of numerous conditions of blight including, but not limited to, the following:

1. Inadequate street system to serve potential parking, circulation, and loading demand of the Central Business District along Spring Street and the industrial sections of the City;
2. Inadequate street lighting, lack of curbs and gutters, and poor public improvements and facilities;
3. The need for additional public and private utilities in order to accommodate the development of properties within the Project Area boundaries, including the need for additional storm drain facilities and infrastructure;
4. The lack of proper utilization of many properties within the Project Area boundaries resulting in development constraints on a number of these properties, thus producing a stagnant and unproductive condition of land which is otherwise potentially useful and valuable;
5. The unimproved, defective, and/or inadequate construction of some street improvements and public/private utilities within the Project Area which has resulted from the uncoordinated development pattern of certain of the properties within the Project Area;
6. The lack of development or redevelopment within the Project Area which has resulted because of the inadequacy of the required public facilities and services necessary to accommodate the redevelopment of the area in cooperation with the private sector;
7. The presence of vacant and viable residential, industrial and commercial property whose development has been impeded due to a community infrastructure system which is not fully designed and developed to a standard acceptable for development;
8. Inadequate planning of the major highways and railroad which traverse the Project Area with the corresponding failure to provide for the physical and social needs of those persons and properties which are adjacent to, and in close proximity with, the major highways. In this regard, it is obvious that the noise, debris, and other pollutants which

are generated by the major highways and the railroad are blighting conditions which negatively impact the property within the Project Area. Provision must be made to minimize or eliminate those conditions and to insure compatibility between the properties adjacent to, and in close proximity with, the major highways; and

9. Severely dilapidated housing structures in which individuals and families are forced to live. Said housing condition is characterized by unsafe structures, insufficient space, poor ventilation, and inadequate sized lots.

In order to eliminate these blighting conditions and prevent their recurrence, it may be necessary to exercise the power of eminent domain.

In approving the Agency's Redevelopment Plan, and Ordinance No. 786 N.S. extending the time limit on the authority of eminent domain within the Project Area, the City Council found and determined that the condemnation of real property within the Project Area, as provided for in the Redevelopment Plan, is necessary to the execution of the Redevelopment Plan and adequate provisions have been made for the payment for any property that is acquired as provided by law. This finding was based upon:

1. The need to ensure that the provisions of the Redevelopment Plan would be carried out; and
2. The need to prevent the recurrence of blight; and
3. The fact that the Agency will utilize its authority to acquire property by eminent domain only as a last resort.

When the Agency exercises its power of eminent domain within the Project Area, in addition to those limitations on the acquisition of real property by any means as set forth in Sections 600.31(1) and 600.33 of the Redevelopment Plan, it shall be exercised within the following limitations:

1. Eminent domain proceedings, if used to acquire property within the Project Area, shall not be commenced after February 3, 2012. This time limit may be extended only by amendment of the Redevelopment Plan. Commencement of an eminent domain proceeding occurs when a complaint in eminent domain is filed with a court.
2. The Redevelopment Agency shall not acquire real property by the use of eminent domain if said property is (a) designated residential on the Zoning and General Plan Maps of the City; and (b) developed in accordance with the Municipal Code of the City; provided however, the Agency may acquire any such residential real property in the Project Area bounded by 15th Street on the north, 1st Street on the south, Spring Street on the west, and the Southern Pacific Railroad right-of-way on the east, and is necessary to facilitate the improvement of the Central Business District.
3. The Agency shall not acquire property outside of the area bounded by 15th Street on the north, 1st Street on the south, Spring Street on the west, and Southern Pacific right-of-way on the east which is developed with a residential dwelling unit which is owner-occupied

as of the date of adoption of the Redevelopment Plan, whether or not such property is zoned for residential use, so long as such owner occupancy continues as evidenced by such owner's qualification for the property tax homeowner exemption.

4. The power of eminent domain shall not be exercised when the property in question is improved with a structure and conforms to the Redevelopment Plan, and in the determination of the Agency the property:
 - a. Is not needed for those specific activities outlined in the Redevelopment Plan;
 - b. Is not needed to provide for or replace very low-, low-, and moderate-income housing pursuant to specific provisions of the Redevelopment Plan;
 - c. Is not needed for any other public improvement or facility;
 - d. Is not needed to promote historical or architectural preservation;
 - e. Is not needed to remove the blighting influences on surrounding properties which might prevent achievement of the objectives of the Redevelopment Plan but, rather, said property will develop in conformity with the objectives of the Redevelopment Plan through private initiative;
 - f. Is not needed for the elimination of any environmental deficiency including, among other things, inadequate street layout, incompatible and mixed land uses, overcrowding and small parcel size; or
 - g. Is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation, parking, and utilities.
5. In the event that it is determined that a particular portion of any real property is required pursuant to the conditions stated above, for the above stated uses, then the power of eminent domain shall not be exercised until a public hearing has been held before the Agency, with written notice of the said hearing given to all affected property owners as may be indicated on the latest tax assessment records, not less than ten (10) days prior to said hearing.
6. Prior to any acquisition through eminent domain, the Agency shall adopt a resolution declaring a need to acquire any specific property and authorize the acquisition by such method. The Agency shall commence an eminent domain proceeding thereunder within three (3) years after the date of adoption of the resolution declaring such need. Thereafter, the Agency shall declare the property to be exempt from acquisition by eminent domain
7. It is the policy of the Agency to encourage the participation of property owners and businesses within the Project Area. Accordingly, the Agency has adopted Owner Participation Rules which extend reasonable preferences to persons who own property or are engaged in business in the Project Area, to continue or re-enter in business within the

Project Area. The power of eminent domain shall not be exercised except in compliance with the rules and procedures set forth therein, as amended from time to time.

8. Generally, personal property shall not be acquired, unless such acquisition is necessary in connection with the acquisition of real property. However, where necessary in the execution of the Redevelopment Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means, including eminent domain.

**Recording Requested by
and When Recorded Return to:**

City of El Paso de Robles
Attention: City Clerk
1000 Spring Street
El Paso de Robles, California 93446

Exempt from recording fees pursuant to Government Code Sections 6103 and 27383

**ALL PROPERTY TO WHICH THIS NOTICE PERTAINS
IS LOCATED WITHIN THE PASO ROBLES REDEVELOPMENT PROJECT**

**REVISED NOTICE OF ADOPTION OF THE REDEVELOPMENT PLAN FOR THE
PASO ROBLES REDEVELOPMENT PROJECT**

NOTICE IS HEREBY GIVEN, in compliance with Section 33373(c) of the California Health and Safety Code which became effective January 1, 2007, that by Ordinance No. 540 N.S. on November 30, 1987, the City Council of the City of El Paso de Robles ("City Council") approved and adopted the Redevelopment Plan for the Paso Robles Redevelopment Project (as amended, the "Redevelopment Plan").

The Redevelopment Agency of the City of El Paso de Robles ("Agency") is vested with the responsibility to carry out the Redevelopment Plan. Pursuant to Health and Safety Code Section 33342.7, which became effective January 1, 2007, the City Council adopted Ordinance No. _____ on _____, 2007, containing a description of the Agency's program to acquire real property by eminent domain within the Paso Robles Redevelopment Project Area ("Project Area").

A legal description of the boundaries of the Project Area is attached hereto as Exhibit A and incorporated herein by reference and a copy of the Redevelopment Plan may be obtained from the Agency.

Proceedings for the redevelopment of the Project Area, as contemplated by the Redevelopment Plan, have been instituted under the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.).

AGENCY'S EMINENT DOMAIN AUTHORITY. Sections 600.30, 600.31, and 600.32 of the Redevelopment Plan authorize the Agency to acquire property by eminent domain, subject to those limitations on the acquisition of real property by any means as set forth in Sections 600.31(1) and 600.33 of the Redevelopment Plan, and further subject to the following limitations on the Agency's authority of eminent domain:

1. Eminent domain proceedings, if used to acquire property within the Project Area, shall not be commenced after February 3, 2012. This time limit may be extended only by amendment of the Redevelopment Plan. Commencement of an eminent domain proceeding occurs when a complaint in eminent domain is filed with a court.
2. The Redevelopment Agency shall not acquire real property by the use of eminent domain if said property is (a) designated residential on the Zoning and General Plan Maps of the City; and (b) developed in accordance with the Municipal Code of the City; provided, however, the Agency may acquire any such residential real property in the Project Area bounded by 15th Street on the north, 1st Street on the south, Spring Street on the west, and the Southern Pacific Railroad right-of-way on the east, and is necessary to facilitate the improvement of the Central Business District.
3. The Agency shall not acquire property outside of the area bounded by 15th Street on the north, 1st Street on the south, Spring Street on the west, and Southern Pacific right-of-way on the east which is developed with a residential dwelling unit which is owner-occupied as of the date of adoption of the Redevelopment Plan, whether or not such property is zoned for residential use, so long as such

owner occupancy continues as evidenced by such owner's qualification for the property tax homeowner exemption.

4. The power of eminent domain shall not be exercised when the property in question is improved with a structure and conforms to the Redevelopment Plan, and in the determination of the Agency the property:
 - a. Is not needed for those specific activities outlined in the Redevelopment Plan;
 - b. Is not needed to provide for or replace very low-, low-, and moderate-income housing pursuant to specific provisions of the Redevelopment Plan;
 - c. Is not needed for any other public improvement or facility;
 - d. Is not needed to promote historical or architectural preservation;
 - e. Is not needed to remove the blighting influences on surrounding properties which might prevent achievement of the objectives of the Redevelopment Plan but, rather, said property will develop in conformity with the objectives of the Redevelopment Plan through private initiative;
 - f. Is not needed for the elimination of any environmental deficiency including, among other things, inadequate street layout, incompatible and mixed land uses, overcrowding and small parcel size; or
 - g. Is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation, parking, and utilities.

5. In the event that it is determined that a particular portion of any real property is required pursuant to the conditions stated above, for the above stated uses, then the power of eminent domain shall not be exercised until a public hearing has been held before the Agency, with written notice of the said hearing given to all affected property owners as may be indicated on the latest tax assessment records, not less than ten (10) days prior to said hearing.
6. Prior to any acquisition through eminent domain, the Agency shall adopt a resolution declaring a need to acquire any specific property and authorize the acquisition by such method. The Agency shall commence an eminent domain proceeding thereunder within three (3) years after the date of adoption of the resolution declaring such need. Thereafter, the Agency shall declare the property to be exempt from acquisition by eminent domain.
7. It is the policy of the Agency to encourage the participation of property owners and businesses within the Project Area. Accordingly, the Agency has adopted Owner Participation Rules which extend reasonable preferences to persons who own property or are engaged in business in the Project Area, to continue or re-enter in business within the Project Area. The power of eminent domain shall not be exercised except in compliance with the rules and procedures set forth therein, as amended from time to time.
8. Generally, personal property shall not be acquired, unless such acquisition is necessary in connection with the acquisition of real property. However, where necessary in the execution of the Redevelopment Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means, including

eminent domain. Filed for recordation with the County Recorder of San Luis Obispo County by order of the City Council of the City of El Paso de Robles, California.

Dated: _____, 2007.

City Clerk of the City of El Paso de Robles

Attachment: Legal Description

EXHIBIT A

LEGAL DESCRIPTION OF THE PROJECT AREA

All that real property in the City of El Paso de Robles, County of San Luis Obispo, State of California within the following described boundaries:

[TO BE INSERTED]

SECTION 600.00 REDEVELOPMENT TECHNIQUES TO ACHIEVE PLAN OBJECTIVES

Section 600.10 General

The redevelopment of the Redevelopment Project Area will be undertaken in order to carry out the intent and purpose of the Redevelopment Law and the redevelopment objectives broadly defined in the previous sections and this Plan.

The Agency proposes to eliminate or alleviate the conditions of blight existing in the Project Area, to strive for economic revitalization and Project Area beautification, and to mitigate the negative social, physical, and environmental impacts resulting from existing and anticipated development or deterioration in the Project Area through the following activities:

Section 600.11

The acquisition of real property by purchase, gift, devise, or any other lawful interest, with the specific limitations on exercising the power of eminent domain.

Section 600.12

The combining of parcels or properties, site preparation and the construction of necessary off-site improvements.

Section 600.13

Providing for owner participation in the redevelopment of property in the Project Area.

Section 600.14

Extending reasonable preference to persons who are engaged in business in the Project Area to reenter businesses within the Project Area, provided that said business reentry conforms with this Plan, the General Plan and Municipal Code of the City.

Section 600.15

The redevelopment of land by private enterprise or public agencies for use in accordance with this Plan.

Section 600.16

Providing for open space and recreational land use.

Section 600.17

Encouraging public and private improvements so as to prevent, mitigate, or eliminate existing and/or anticipated blight conditions in the Project Area.

Section 600.18

The disposition of property including the lease or sale of land at a value determined by the Agency for reuse in accordance with this Plan and under all the conditions contained within it.

Section 600.19

Providing relocation assistance to displaced residential and nonresidential occupants (if any).

Section 600.20

Demolishing or removing certain existing buildings and improvements on land acquired by the Agency.

Section 600.21

The demolition, removal, rehabilitation, alteration, modernization, general improvement, or any combination thereof, of existing structures in the Project Area where such are permitted or required under the Redevelopment Plan.

Section 600.22

The vacation or closure of certain street areas and dedication of other areas for public street purposes.

Section 600.23

The preparation, by the Agency, of acquired land for building sites. In connection therewith the Agency may cause streets, bridges, railroad crossings, bikeways, and pedestrian ways to be designed, installed, constructed, or reconstructed; may cause sidewalks, curbs, and public utilities to be constructed and installed; and may cause landscaping and other on-site and off-site improvements to be completed in conformity with the Redevelopment Plan.

Section 600.24

Provide for the use of twenty percent (20%) of tax increment resulting from the Project Area, to be used for the purpose of increasing and improving the community's supply of housing for persons and families of very low, low or moderate income should particular findings not be made by the Agency.

Section 600.25

Provide replacement housing for dwelling units of families of low and moderate income destroyed or removed within the Project Area.

Section 600.26

Negotiate arrangements with taxing jurisdictions to alleviate any financial burden or detriment caused to the taxing entity as a result of the adoption of the Redevelopment Plan.

Section 600.30 Property Acquisition

Section 600.31 Acquisition of Real Property

1. General Provisions for Real Property Acquisition

Except as specifically exempted herein, the Agency may, but is not required to obtain real property by purchase, lease, obtain options to, acquire by gift, grant, bequest, exchange, devise, eminent domain or other lawful method whatsoever, insomuch as it is necessary to carry out the purposes of this Plan.

The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire property devoted to a public use if it is transferred to private ownership before the Agency completes land

disposition within the entire Project Area unless the Agency is not authorized to acquire such property under other provisions of this Plan.

The Agency is authorized to acquire any interest in real property fee or less than fee interest, and to acquire structures without acquiring the land upon which said structures are located. The Agency is not authorized to acquire interest in oil, gas, or other mineral substance within the Project Area, but may acquire water rights to any and all properties within the Project Area.

Prior to acquiring real property, the Agency shall have an independent appraisal made of the property by a professional appraiser to determine the fair market value of the property. Said fair market value shall be publicly disclosed prior to the Agency taking action on the acquisition. The Agency may acquire said property for a value not less than the fair market appraisal.

The Agency, at the request of the legislative body, may accept a conveyance of real property (located within or outside the survey area) owned by a public entity and declared surplus by the public entity, or owned by a private entity. The Agency may dispose of such property to private persons or to public or private entities, by sale or long-term lease for development. All or any part of the funds derived from the sale or lease of such property may, at the discretion of the City Council, be paid to the community or to the public entity from which any such property was acquired.

The Agency shall not acquire from any of its members or officers any property, or interest in property.

Without the consent of an owner, the Agency shall not acquire any real property on which an existing building is to be continued on its present site and in its present form and use 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 the Plan and the owner fails or refuses to agree to participate in the Redevelopment Plan pursuant to an owner participation agreement.

Any covenants, conditions, or restrictions existing on any real property within a Project Area prior to the time the Agency acquires title to such property, which covenants, conditions, or restrictions restrict or purport to restrict the use of, or building upon, such real property, shall be void and unenforceable as to the Agency and any other subsequent owners, tenants, lessees, easement holders, mortgagees, trustees, beneficiaries under a deed of trust, or any other persons or entities acquiring an interest in such real property from such time as

title to the real property is acquired by an Agency whether acquisition is by gift, purchase, or otherwise. This shall not apply to covenants, conditions, or restrictions imposed by a Redevelopment Plan or by the Agency pursuant to the Redevelopment Plan. This also shall not apply to covenants, conditions, or restrictions where the Agency in writing expressly acquires or holds property subject to such covenants, conditions, or restrictions. Further, this shall not limit or preclude any rights of reversion of owners, assignees or beneficiaries of such covenants, conditions, or restrictions. Further, this shall not limit or preclude the rights or owners or assignees of any land benefited by any covenants, conditions, or restrictions to recover damages against the Agency if under law such owner or assignee has any right to damages. No right to damages shall exist against any purchaser from the Agency or his successors or assigns, or any other persons or entities.

2. Acquisition of Real Property by Eminent Domain

Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency to acquire real property in the Project Area.

The Redevelopment Agency shall have no authority to acquire real property by the use of eminent domain or condemnation if said property is a) designated residential on the Zoning and General Plan Maps of the City; and b) developed in accordance with the Municipal Code of the City; provided however, the Agency may acquire any such residential real property in the Project Area bounded by 15th Street on the north, 1st Street on the south, Spring Street on the west, and the Southern Pacific Railroad right-of-way on the east, and is necessary to facilitate the improvement of the Central Business District.

The Agency shall have no authority to acquire property outside of the area bounded by 15th Street on the north, 1st Street on the south, Spring Street on the west, and the Southern Pacific right-of-way on the east which is developed with a residential dwelling unit which is owner-occupied as of the date of adoption of the Redevelopment Plan, whether or not such property is zoned for residential use, so long as such owner occupancy continues as evidenced by such owner's qualification for the property tax homeowner exemption.

The power of eminent domain will not be exercised when the property in question is improved with a structure and conforms to the Plan, and in the determination of the Agency:

- a. Is not needed for those specific activities outlined in this Plan;

- b. Is not needed to provide for or replace very low-, low-, and moderate-income housing pursuant to specific provisions of this Plan;
- c. Is not needed for any other public improvement or facility;
- d. Is not needed to promote historical or architectural preservation;
- e. Is not needed to remove the blighting influences on surrounding properties which might prevent achievement of the objectives of this Plan but, rather, said property will develop in conformity with the objectives of this Plan through private initiative;
- f. Is not needed for the elimination of any environmental deficiency including, among other things, inadequate street layout, incompatible and mixed land uses, overcrowding and small parcel size; or
- g. Is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation, parking, and utilities.

Through the adoption of this Plan, the Agency has not designated and/or identified any particular parcel of property or properties to be acquired through eminent domain.

In the event that it is determined that a particular portion of any real property is required pursuant to the conditions stated above, for the above stated uses, then the power of eminent domain shall not be exercised until a public hearing has been held before the Agency, with written notice of the said hearing given to all affected property owners as may be indicated on the latest tax assessment records, not less than ten (10) days prior to said hearing.

A time limit of twelve (12) years from the date of the ordinance adopting the Redevelopment Plan is established within which time the Agency may commence eminent domain proceedings as herein above set forth. Such time limitation may be extended only by amendment of the Redevelopment Plan.

3. Declaration of Need to Acquire Real Property and Eminent Domain

Prior to any acquisition through eminent domain, the Agency shall adopt a resolution declaring a need to acquire any specific property and authorize the acquisition by such a method. The Agency shall commence an eminent domain proceeding thereunder within three (3) years after the date of adoption of the resolution declaring such need.

Thereafter, the Agency shall declare the property to be exempt from acquisition by eminent domain.

Thirty days prior to the acquisition of real property other than by eminent domain, the Agency shall provide notice of such acquisition and the provisions of this section to holders of interests which would be made void and un-enforceable pursuant to this section as follows:

- a. The Agency shall publish notice once in a newspaper of general circulation in the community in which the Agency is functioning.
- b. The Agency shall mail notices to holders of such interests if such holders appear on record sixty (60) days prior to the date of acquisition.

The Agency may accept any release by written instrument from the holder of any such interest, or may commence action to acquire such interest, after the date of the acquisition of real property.

Section 600.32 Acquisition of Personal Property

Generally, personal property shall not be acquired. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means, except the authority of eminent domain or condemnation.

Section 600.33 Community Input Prior to Property Acquisition by the Agency

Except as provided in Section 600.31 and before the acquisition of any real property, except for those portions of properties which are found to be necessary for the development and implementation of ultimate street right-of-way and utility improvements, the Agency shall conduct a public hearing with notice of same given by publishing it in a general circulation newspaper for a period of not less than ten (10) days prior to the hearing. Said public hearing shall be scheduled to discuss the merits of such acquisition and plans for redevelopment. The Agency shall encourage the input, recommendations, and comments from the community and interested citizens and groups involved in any such acquisition or development proposals.

Section 600.40 Conforming Owners and Participation by Owners and Business Tenants

Section 600.41 Opportunities of Owners and Business Tenants

The Agency shall extend reasonable preferences to persons who are engaged in business in the Project Area to re-enter into business within the Project