

ORDINANCE NO. 933 N.S.

**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 in the Paso Robles Press 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.

INTRODUCED at a regular meeting of the City Council held on May 15, 2007 and PASSED AND ADOPTED this 5th day of June 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.