ORDINANCE NO. 2007-037

Adopted by the Sacramento City Council

May 8, 2007

ADOPTING THE THIRD AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE AUBURN BOULEVARD REDEVELOPMENT PROJECT, ADOPTING AN EMINENT DOMAIN PROGRAM FOR THE AUBURN BOULEVARD REDEVELOPMENT PROJECT AND DIRECTING CITY STAFF TO RECORD A REVISED STATEMENT OF PROCEEDINGS

BACKGROUND

A. Pursuant to Ordinance No. 1405 adopted on October 13, 1992, and in accordance with the provisions of California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) ("CRL"), the City Council ("City Council") of the City of Sacramento ("City") has approved and adopted that certain Redevelopment Plan for the Auburn Boulevard Redevelopment Project Area ("Project Area");

B. The Sacramento Housing and Redevelopment Agency ("Agency") is engaged in activities necessary to carry out the Redevelopment Plan;

C. Pursuant to CRL § 33342.7, prior to July 1, 2007, the legislative body of the Agency is required to adopt an ordinance containing a description of the Agency's eminent domain program ("Eminent Domain Program") for the Project Area;

D. The Agency must record with the Sacramento County Recorder a description of the land within the Project Area and a statement that any proceedings for the redevelopment of the Project Area have been instituted under CRL § 33373 ("Statement of Proceedings");

E. New CRL § 33373(d) more particularly requires the recordation of such Statement of Proceedings prior to the Agency's commencement of any future eminent domain action; and

F. Section 308 of the Redevelopment Plan for the Project Area authorized the Agency to acquire certain real property by eminent domain for twelve (12) years following the effective date of the Ordinance approving and adopting the Redevelopment Plan;

G. The deadline to acquire real property in the Project Area was October 12, 2004, and such deadline was not extended by the Agency;

H. It is the intent of the legislative body of the Agency to promote effective redevelopment, but to discourage abuses of eminent domain powers;

I. In the future, should the Agency again be authorized to acquire real property by eminent domain, the Agency intends to comply with all applicable laws relating to payment of fair market value, relocation expenses, loss of business goodwill and such other damages as may be allowed by law when property is taken by eminent domain;

J. The City now desires to adopt an eminent domain program describing the Agency's program to acquire real property by eminent domain in the Project Area, including any limitations on the Agency's exercise of the power of eminent domain in the Project Area;

K. City staff has determined that the approval and adoption of this Ordinance does not constitute an approval of any specific program, project or expenditure and does not constitute a project with in the meaning of the California Environmental Quality Act (Public Resources Code § 21000) ("CEQA"); and

L. Pursuant to the foregoing, City staff has determined that a notice of exemption ("Notice of Exemption") for the approval of this Ordinance should be filed with the County of Sacramento, pursuant to CEQA, the State CEQA Guidelines and the City's Local CEQA Guidelines.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

Section 1. After due consideration of the evidence presented, the foregoing recitals are true and correct.

Section 2. The purpose of this Ordinance is to adopt the Eminent Domain Program for the Project Area within the territorial jurisdiction of the City pursuant to CRL § 33342.7.

Section 3. The goal of the Agency is to improve the quality of life in the City of Sacramento by eliminating the existence of blight, abandoned properties, boardups, inconsistent uses, and properties that experience repeated calls for police services or otherwise constitute a nuisance.

Section 4. The following paragraph shall be added at the end of Section 308, pages 7 and 8, of the Redevelopment Plan:

"EMINENT DOMAIN PROGRAM

Notwithstanding the foregoing, as of October 12, 2004, the Agency is no longer authorized to acquire real property by eminent domain in the Project Area.

If the Agency is authorized to acquire real property by eminent domain pursuant to the provisions of this Plan, the Agency shall

strictly adhere to the following in assessing just compensation and damages to affected owners: The Fifth Amendment to the United States Constitution, Article I, section 19 of the California Constitution, the Eminent Domain Law (California Code of Civil Procedure Section 1230010, et seq.), the California Relocation Assistance Act (California Government Code Section 7260, et seq.), implementing rules and regulations (Title 25, California Code of Regulations) and such other applicable local, state or federal ordinances, statutes, rules, regulations and decisional laws. The Agency shall assess the payment of fair market value for interests in real property, payment for the taking and damaging of improvements, fixtures and equipment, any diminution in value caused to a remainder of property acquired pursuant to a resolution of necessity, relocation benefits and assistance, loss of business goodwill in appropriate cases and the necessary costs of mitigating a loss of business goodwill."

Section 5. The Mayor shall sign this Ordinance and the City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the continuing responsibility for carrying out the Redevelopment Plan.

Section 6. The City Clerk is hereby directed to record with the County Recorder of Sacramento County, the Statement of Proceedings in accordance with Government Code § 27295 and CRL § 33373.

Section 7. This Ordinance shall be in full force and effect thirty (30) days from and after the date of its final passage and shall be affixed to the Redevelopment Plan as an Amendment to such Plan.

Section 8. If any part of this Ordinance or the Redevelopment Plan, as amended, is held to be invalid for any reason, such decision shall not affect the validity of any remaining portion of this Ordinance or the Redevelopment Plan, as amended, and the City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion had been deleted.

Section 9. The Executive Director of the Agency is hereby authorized to compile the Redevelopment Plan, as amended by this Ordinance, into a single document and said document, when filed with the City Clerk and the Agency Secretary, shall constitute the official Redevelopment Plan for the Auburn Boulevard Redevelopment Project

Section 10. This Ordinance shall be introduced at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall certify to the adoption of this Ordinance and cause the Ordinance to be posted in at least three (3) public places within the City.

Adopted by the City of Sacramento City Council on May 8, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: None.

Heather Fargo

Mayor Heather Fargo

Attest:

Shirley Concolino

Shirley Concolino, City Clerk

Passed for Publication May 1, 2007
Published May 4, 2007
Effective June 7, 2007