



# CITY OF LONG BEACH

DEPARTMENT OF COMMUNITY DEVELOPMENT

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802

# ORD-19

June 12, 2007

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Declare Ordinance adopting the program description required by Health and Safety Code Section 33342.7 read for the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

## DISCUSSION

The State Legislature has adopted Senate Bill (SB) 53, which requires a city council to adopt an ordinance on or before July 1, 2007, containing a description of its program to acquire real property in its redevelopment project areas by eminent domain. This program is already outlined in the City's redevelopment plans adopted by the City Council of the City of Long Beach. Staff proposes no changes to the City of Long Beach Redevelopment Agency's (Agency) existing authority to acquire property by eminent domain. To change the existing eminent domain provisions in a redevelopment plan, the City Council would have to adopt an amendment to that redevelopment plan following the procedures outlined in the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*).

The Agency has the authority to acquire real property with eminent domain in four of the City's seven redevelopment project areas. The project areas where the use of eminent domain is authorized are the North Long Beach, Central Long Beach, Downtown and Poly High Redevelopment Project Areas. The redevelopment plans for these project areas authorize the use of eminent domain to acquire any real property that cannot be acquired by any other lawful method, with the following exceptions:

- Property that is the subject of an owner participation agreement (OPA) between the Agency and a property owner;
- An existing building to be continued on its present site and in its present form and use without the consent of the owner unless some modification is necessary to comply with the redevelopment plan; and

- Property owned by public bodies that do not consent to such acquisition.

Each of the redevelopment plans contains a time limit on the Agency's authority to acquire property by eminent domain. The existing time limits are as follows:

- Central Long Beach: April 18, 2013
- Downtown: December 10, 2010
- North Long Beach: July 16, 2008
- Poly High: December 2, 2010

This letter was reviewed by Assistant City Attorney Heather A. Mahood on May 22, 2007, and Budget and Performance Management Bureau Manager David Wodynski on May 22, 2007.

#### TIMING CONSIDERATIONS

City Council action is requested on June 12, 2007, to comply with the requirements of California Health and Safety Code Section 33342.7 to adopt the attached ordinance prior to July 1, 2007.

#### FISCAL IMPACT

Adoption of the attached ordinance will have no fiscal impact.

#### SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



PATRICK H. WEST  
DIRECTOR OF COMMUNITY DEVELOPMENT

PHW:CB:LAF:laf

Attachment: Ordinance

APPROVED:

  
for GERALD R. MILLER  
CITY MANAGER

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH, CALIFORNIA CONTAINING A  
DESCRIPTION OF THE LONG BEACH REDEVELOPMENT  
AGENCY'S PROGRAM TO ACQUIRE REAL PROPERTY BY  
EMINENT DOMAIN IN THE CITY'S REDEVELOPMENT  
PROJECTS

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  
redevelopment agency's program to acquire real property by eminent domain; and

WHEREAS, the City Council adopted Ordinance No. C-5063 on April 3,  
1973, approving and adopting the Redevelopment Plan (the "Poly High Redevelopment  
Plan") for the Poly High Redevelopment Project and amended such plan on August 20,  
1974, December 14, 1976, November 11, 1986, December 13, 1994, November 17,  
1998, March 16, 1999, November 11, 2003, April 6, 2004, February 8, 2005, and  
December 19, 2006; and

WHEREAS, on November 17, 1998, the City Council adopted Ordinance  
No. C-7576, extending the time limit for exercise of the power of eminent domain  
pursuant to the Poly High Redevelopment Plan; and

WHEREAS, the City Council adopted Ordinance No. C-5187 on June 17,  
1975, approving and adopting the Redevelopment Plan (the "Downtown Redevelopment  
Plan") for the Downtown Redevelopment Project and amended such plan on November  
11, 1986, December 23, 1986, December 13, 1994, September 1, 1998, March 16, 1999,  
April 6, 2004, January 18, 2005 and December 19, 2006; and

1 WHEREAS, on September 1, 1998, the City Council adopted Ordinance  
2 No. C-7557, extending the time limit for exercise of the power of eminent domain  
3 pursuant to the Downtown Redevelopment Plan; and

4 WHEREAS, the City Council adopted Ordinance No. C-7412 on July 16,  
5 1996 approving and adopting the Redevelopment Plan (the "North Redevelopment  
6 Plan") for the North Long Beach Redevelopment Project; and amended such plan on  
7 April 6, 2004; and

8 WHEREAS, on March 6, 2001 the City Council adopted Ordinance No. C-  
9 7738 which readopted the Central Redevelopment Plan ("Central Redevelopment Plan")  
10 and amended such Plan on April 6, 2004;

11 NOW, THEREFORE, the City Council of the City of Long Beach, ordains as  
12 follows:

13 Section 1. A description of the Agency's program to acquire real property  
14 by eminent domain is set forth in Exhibit "A" (Poly High Redevelopment Plan), Exhibit "B"  
15 (Downtown Redevelopment Plan), Exhibit "C" (North Redevelopment Plan), and Exhibit  
16 "D" (Central Redevelopment Plan) attached hereto and incorporated herein by this  
17 reference. The Agency's program to acquire real property by eminent domain may be  
18 amended only by amending these redevelopment plans pursuant to Article 12 of the  
19 Community Redevelopment Law (commencing with Health and Safety Code Section  
20 33450).

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

23 Section 3. If any part of this Ordinance is held to be invalid for any  
24 reason, such decision shall not affect the validity of the remaining portion of this  
25 Ordinance, and this City Council hereby declares that it would have passed the  
26 remainder of this Ordinance if such invalid portion thereof had been deleted.

27 Section 4. The City Clerk shall certify to the passage of this ordinance by  
28 the City Council and cause it to be posted in three (3) conspicuous places in the City of

1 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
2 Mayor.

3 I hereby certify that the foregoing ordinance was adopted by the City  
4 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2007, by the  
5 following vote:

6 Ayes: Councilmembers: \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 Noes: Councilmembers: \_\_\_\_\_

11 \_\_\_\_\_

12 Absent: Councilmembers: \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 Approved: \_\_\_\_\_

18 (Date) \_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 \_\_\_\_\_

23 \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_

26 \_\_\_\_\_

27 \_\_\_\_\_

28 \_\_\_\_\_

HAM:fl  
5/23/07  
#07-02259

## EXHIBIT "A"

### DESCRIPTION OF REDEVELOPMENT AGENCY'S PROGRAM TO ACQUIRE PROPERTY IN THE POLY HIGH REDEVELOPMENT PROJECT AREA

The program, as described in the Poly High Redevelopment Plan, is as follows:

E.     [§ 510]     Property Acquisition

1.     [§ 511]     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 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 the Plan, for the power of eminent domain to be employed by the Agency to acquire the real property in the Project area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method.

The Agency shall not within the Project area acquire interests in oil, gas, or other mineral or hydrocarbon substances, nor the right to extract such substances through any opening or penetration for any purpose connected therewith more than 500 feet from the surface.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee.

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 (1) such building requires structural alterations, improvement, modernization, or rehabilitation, or (2) the site or lot on which the building is situated requires modification in size, shape, or use, or (3) 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 participate in the Plan by executing a participation agreement.

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 public property transferred to private

ownership before the Project is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his responsibilities under a participation agreement.

As a part of the cost of acquisition of all property acquired in the Project area, the Agency shall compensate each displaced person as provided in California Government Code, Section 7260 et seq.

2.     [§ 512]     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 eminent domain; provided, however, that no federal funds shall be used for personal property acquisition except with the approval of the Federal government.

Eminent domain proceedings within the Project Area shall not be commenced after December 2, 2010.

## EXHIBIT "B"

### DESCRIPTION OF REDEVELOPMENT AGENCY'S PROGRAM TO ACQUIRE PROPERTY IN THE DOWNTOWN REDEVELOPMENT PROJECT AREA

The program, as described in the Downtown Redevelopment Plan, is as follows:

B.     [§ 302]       Property Acquisition

1.     [§ 303]       Acquisition of Real Property

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

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute the Plan, for the power of eminent domain to be employed by the Agency to acquire real property in the Project area.

The Agency shall not acquire interests in oil, gas or other mineral substances within the Project area.

The Agency is not authorized by law to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before the Project is completed unless the Agency and the private owner enter into a participation agreement and the owner completes his responsibilities under a participation agreement.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire either the entire fee or any other interest in real property less than a fee.

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 (1) such building requires structural alteration, improvement, modernization, or rehabilitation, or (2) the site or lot on which the building is situated requires modification in size, shape, or use, or (3) 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 participate in the Plan by executing a participation



agreement.

2.     [§ 304]     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 eminent domain.

Eminent domain proceedings within the Project Area shall not be commenced after December 10, 2010.

## EXHIBIT "C"

### DESCRIPTION OF REDEVELOPMENT AGENCY'S PROGRAM TO ACQUIRE PROPERTY IN THE NORTH LONG BEACH REDEVELOPMENT PROJECT AREA

The program, as described in the North Long Beach Redevelopment Plan, is as follows:

D.     [§ 307]         Property Acquisition

1.     [§ 308]         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 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. Eminent domain proceedings, if used, must be commenced within twelve (12) years from the date the ordinance adopting this Plan becomes effective.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee.

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: (a) such building requires structural alteration, improvement, modernization, or rehabilitation; (b) the site, or lot on which the building is situated, requires modification in size, shape, or use; or (c) it is necessary to impose upon such property any of the controls, limitations, restrictions, and requirements of this Plan and the owner fails or refuses to execute a participation agreement in accordance with the provisions 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 public property transferred to private ownership before redevelopment of the Project Area is completed, unless the Agency and the private owner enter into a participation agreement and

the owner completes his responsibilities under the participation agreement.

2.     [§ 309]     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, including eminent domain.

Eminent domain proceedings within the Project Area shall not be commenced after July 16, 2008.

## EXHIBIT "D"

### DESCRIPTION OF REDEVELOPMENT AGENCY'S PROJECT TO ACQUIRE PROPERTY IN THE CENTRAL REDEVELOPMENT PROJECT AREA

The program, as described in the Central Redevelopment Plan,  
Is as follows:

D.     [§ 307]       Property Acquisition

1.     [§ 308]       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 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 implement 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. Eminent domain proceedings, if used, must be commenced within twelve (12) years from the date of adoption of this Plan.

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

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: (a) such building requires structural alteration, improvement, modernization or rehabilitation; (b) the site, or lot on which the building is situated, requires modification in size, shape or use; or (c) it is necessary to impose upon such property any of the controls, limitations, restrictions and requirements of this Plan, and the owner fails or refuses to execute a participation agreement in accordance with the provisions 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 public property transferred to private ownership before redevelopment of the Project Area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his responsibilities under the participation agreement.

2.     [§ 309]     Personal Property

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

Eminent domain proceedings within the Project Area shall not be commenced after April 8, 2013.