

ORDINANCE NO. 6,982–N.S.

ADOPTING A DESCRIPTION OF THE PROGRAM FOR THE ACQUISITION OF REAL PROPERTY FOR THE REDEVELOPMENT PLAN FOR THE WEST BERKELEY REDEVELOPMENT PROJECT AREA AND RELATED ACTIONS

WHEREAS, the City Council of the City of Berkeley adopted the Redevelopment Plan for the West Berkeley Redevelopment Project Area by Ordinance No. 4,271–N.S., as amended by Ordinance No. 6272–N.S., as amended by Ordinance No. 6860–N.S., and as further amended by Ordinance No. 6861–N.S. (collectively, the "Redevelopment Plan"), establishing the West Berkeley Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Project Area is situated in the County of Alameda, State of California, and is more particularly described as between Cedar Street and University Avenue and Eastshore Avenue and 6th Street in Berkeley, CA as in Exhibit A attached to the Redevelopment Plan for the West Berkeley Redevelopment Project Area; and

WHEREAS, the Redevelopment Plan formerly authorized the use of eminent domain under specified circumstances to acquire real property by the Berkeley Redevelopment Agency (the "Agency"), but such power of eminent domain completely expired as of December 25, 1998; and

WHEREAS, the State Legislature recently added Health and Safety Code Section 33342.7 to the Community Redevelopment Law, which requires the City Council to adopt by ordinance a description of the Agency's program to acquire real property by eminent domain; and

WHEREAS, the Agency has prepared the required description of the program (the "Acquisition Program") which is attached to and incorporated herein as Exhibit A, and which describes that the Agency has no power to acquire real property in the Project Area through eminent domain; and

WHEREAS, the Agency staff has prepared and submitted and the City Council has reviewed and considered the staff report on this Ordinance; and

WHEREAS, the Agency staff has prepared and submitted to City Council for review and approval a CEQA Notice of Exemption for the Ordinance; and

WHEREAS, the State Legislature recently added Health and Safety Code Section 33373(c) to the Community Redevelopment Law, which requires the Agency to record a revised Statement of Institution which includes a description of the Agency's program to acquire real property by eminent domain (the "Statement"), but only if the Agency possesses the power of eminent domain in the Project Area pursuant to the Redevelopment Plan; and

WHEREAS, because the Agency does not have the power of eminent domain in the Project Area, as noted above, no such Statement is required to be recorded with

respect to the Redevelopment Plan and the Project Area pursuant to Health and Safety Code Section 33373(c).

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. The City Council hereby finds and declares that the above recitals are true and correct.

Section 2. It is hereby found and determined that the adoption of this Ordinance is required by law is thus necessary and desirable.

Section 3. In compliance with Health and Safety Code Section 33342.7, the description of the Agency's Acquisition Program for the Project Area, as set forth in the attached Exhibit A, is hereby approved and adopted.

Section 4. The City Council hereby approves the CEQA Notice of Exemption and directs the City Clerk to file the Notice of Exemption with the County Clerk of the County of Alameda.

Section 5. The City Clerk is hereby directed to file a copy of the Ordinance and the CEQA Notice of Exemption with the minutes of this meeting. A copy of this Ordinance shall be transmitted to the Agency and the Agency is vested with the responsibility of implementing the Ordinance.

Section 6. The Executive Director of the Agency is hereby directed to record the Ordinance in compliance with the provisions of Health and Safety Code Sections 33342.7 and 33373(c), and Government Code Section 27295.

Section 7. If any provision, section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of the.

Section 8. This Ordinance shall take effect and be in full force from and after thirty (30) days from the date of its final passage.

At a regular meeting of the Council of the City of Berkeley held on May 22, 2007, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

EXHIBIT A

PROPERTY ACQUISITION BY EMINENT DOMAIN POLICY

The Agency's power of eminent domain within the Project Area has completely expired. As a result, the Agency has no power to acquire real property in the Project Area through eminent domain. The Agency could obtain the power of eminent domain in the future with respect to any real property in the Project Area only if the City Council were to adopt a Redevelopment Plan amendment in accordance with the procedures and requirements of the California Community Redevelopment Law for such an amendment.

The Agency retains the power under the Redevelopment Plan to acquire real property in the Project Area by voluntary means, such as gift, exchange, or sale, in which the owner of the real property being acquired by the Agency voluntarily agrees to such gift, exchange, or sale.

ORDINANCE NO. 6,983–N.S.

ADOPTING A DESCRIPTION OF THE PROGRAM FOR THE ACQUISITION OF REAL PROPERTY FOR THE REDEVELOPMENT PLAN FOR THE SAVO ISLAND REDEVELOPMENT PROJECT AREA

WHEREAS, the City Council of the City of Berkeley adopted the Redevelopment Plan for the Savo Island Redevelopment Project Area by Ordinance No. 4,807–N.S., as amended by Ordinance No. 5,781–NS § 1-6, 1986. (collectively, the "Redevelopment Plan"), establishing the Savo Island Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Project Area is situated in the County of Alameda, State of California, and is more particularly located between Milvia and Adeline and Ward and Russell Streets in Berkeley, CA as described on Map 1 attached to the Redevelopment Plan for the Savo Island Project Area; and

WHEREAS, the Redevelopment Plan formerly authorized the use of eminent domain under specified circumstances to acquire real property by the Berkeley Redevelopment Agency (the "Agency"), but such power of eminent domain completely expired in 1998; and

WHEREAS, SB 53 added Health and Safety Code Section 33342.7 to the Community Redevelopment Law, which requires the City Council to adopt by ordinance a description of the Agency's program to acquire real property by eminent domain; and

WHEREAS, the Agency has prepared the required description of the program (the "Acquisition Program") which is attached to and incorporated in this Ordinance as Exhibit A, and which describes that the Agency has no power to acquire real property in the Project Area through eminent domain; and

WHEREAS, the Agency has prepared and submitted and the City Council has reviewed and considered the staff report on this Ordinance; and

WHEREAS, the Agency staff has prepared and submitted to City Council for review and approval a CEQA Notice of Exemption for the Ordinance; and

WHEREAS, SB 1809 added Health and Safety Code Section 33373(c) to the Community Redevelopment Law, which requires the Agency to record a revised Statement of Institution which includes a description of the Agency's program to acquire real property by eminent domain (the "Statement"), but only if the Agency possesses the power of eminent domain in the Project Area pursuant to the Redevelopment Plan; and

WHEREAS, because the Agency does not have the power of eminent domain in the Project Area, as noted above, no such Statement is required to be recorded with respect to the Redevelopment Plan and the Project Area pursuant to SB 1809 and Health and Safety Code Section 33373(c).

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Berkeley:

Section 1. The City Council hereby finds and declares that the above recitals are true and correct.

Section 2. It is hereby found and determined that the adoption of this Ordinance is required by law is thus necessary and desirable.

Section 3. In compliance with Health and Safety Code Section 33342.7, the description of the Agency's Acquisition Program for the Project Area, as set forth in the attached Exhibit A, is hereby approved and adopted.

Section 4. The City Council hereby approves the CEQA Notice of Exemption and directs the City Clerk to file the Notice of Exemption with the County Clerk of the County of Alameda.

Section 5. The City Clerk is hereby directed to file a copy of the Ordinance and the CEQA Notice of Exemption with the minutes of this meeting. A copy of this Ordinance shall be transmitted to the Agency and the Agency is vested with the responsibility of implementing the Ordinance.

Section 6. If any provision, section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of the.

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

At a regular meeting of the Council of the City of Berkeley held on May 22, 2007, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Mayor Bates.

Noes: None.

Absent: None.

EXHIBIT A

PROPERTY ACQUISITION BY EMINENT DOMAIN POLICY

The Agency's power of eminent domain within the Project Area has completely expired. As a result, the Agency has no power to acquire real property in the Project Area through eminent domain. The Agency could obtain the power of eminent domain in the future with respect to any real property in the Project Area only if the City Council were to adopt a Redevelopment Plan amendment in accordance with the procedures and requirements of the California Community Redevelopment Law for such an amendment.

The Agency retains the power under the Redevelopment Plan to acquire real property in the Project Area by voluntary means, such as gift, exchange, or sale, in which the owner of the real property being acquired by the Agency voluntarily agrees to such gift, exchange, or sale.