

ORDINANCE NO. 2007-06
AN ORDINANCE OF THE CITY OF LEMOORE, CALIFORNIA
CONTAINING A DESCRIPTION OF THE
LEMOORE REDEVELOPMENT AGENCY'S
PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN
IN THE LEMOORE REDEVELOPMENT PROJECT AREA

WHEREAS, the City Council of the City of Lemoore, California ("City Council") adopted Ordinance No. 8616 on December 2, 1986, approving and adopting the Redevelopment Plan for the Lemoore Redevelopment Project; adopted Ordinance No. 9009 on June 19, 1990, approving and adopting Amendment No. One to the Lemoore Redevelopment Project; and adopted Ordinance No. 9702 on June 3, 1997, approving and adopting Amendment No. Two to the Lemoore Redevelopment Project (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Agency of the City of Lemoore ("Agency") has been designated as the official redevelopment agency in the City of Lemoore 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, Section IV. B. of the Redevelopment Plan contains Agency authority to acquire property by eminent domain; and

WHEREAS, Section 33342.7 of the Health and Safety Code, which was added by Senate Bill 53 ("SB 53"), which took effect on January 1, 2007, 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 LEMOORE, 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 this 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 is authorized and directed to cause this ordinance or a summary of this ordinance to be published in a newspaper of general circulation published and circulated by the City of Lemoore, within 15 days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the June 5, 2007 meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall become effective 30 days after its adoption.

* * * * *

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Lemoore held May 5, 2007, and was passed and adopted at a regular meeting of the City Council held _____, 2007 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

John F. Murray, Mayor

ATTEST:

Nanci C. O. Lima, City Clerk

Exhibit A

LEMOORE REDEVELOPMENT AGENCY PROGRAM TO ACQUIRE PROPERTY BY EMINENT DOMAIN

The following text is taken from the Redevelopment Plan of the Lemoore Redevelopment Project Plan as originally adopted in 1986 and as amended in 1990 and 1997.

SECTION 1. REDEVELOPMENT PLAN FOR LEMOORE REDEVELOPMENT PROJECT PLAN (1986)

IV. B. (Sec. 402) Property Acquisition

1. (Sec. 403) Acquisition of Real Property

“The Agency may purchase, lease, obtain option upon or otherwise acquire any interest in real property located in the Project Area by gift, devise, exchange, purchase, or any other means authorized by law including the use of eminent domain for purposes of redevelopment. Acquisition of property will generally be achieved by cooperative negotiations between the owner of such property and the Agency.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement unless provision for such acquisition is made in the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located.

No eminent domain proceeding to acquire property within the Project Area shall be commenced after twelve (12) years following the date of adoption of the ordinance approving and adopting this Redevelopment Plan. Such time limitation may be extended only by amendment of this Redevelopment Plan.

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.”

2. (Sec. 404) Acquisition of Personal Property

“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 Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means except eminent domain (other than in connection with the acquisition of real property).”

SECTION 2. REDEVELOPMENT PLAN FOR AMENDMENT NO. ONE TO THE LEMOORE REDEVELOPMENT PROJECT PLAN (1990)

IV. B. (Sec. 402) Property Acquisition

1. (Sec. 403) Acquisition of Real Property

“The Agency may purchase, lease, obtain option upon or otherwise acquire any interest in real property located in the Project Area by gift, devise, exchange, purchase, or any other means authorized by law including the use of eminent domain for purposes of redevelopment. Acquisition of property will generally be achieved by cooperative negotiations between the owner of such property and the Agency.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement unless provision for such acquisition is made in the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located.

No eminent domain proceeding to acquire property within the Project Area shall be commenced after twelve (12) years following the date of adoption of the ordinance approving and adopting this Redevelopment Plan. Such time limitation may be extended only by amendment of this Redevelopment Plan.

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.”

2. (Sec. 404) Acquisition of Personal Property

“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 Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means except eminent domain (other than in connection with the acquisition of real property).”

SECTION 3. REDEVELOPMENT PLAN FOR AMENDMENT NO. TWO TO THE LEMOORE REDEVELOPMENT PROJECT PLAN (1997)

IV. B. (Sec. 402) Property Acquisition

1. (Sec. 403) Acquisition of Real Property

“Within the Added Territory, the Agency shall not acquire by eminent domain property on which any persons reside. The “property on which any person resides” shall mean that a person actually lives on the property, and that the property is either zoned for residential use or is a legally non-conforming residential use as defined by the City of Lemoore.

The Agency shall have the right to exercise its power of eminent domain as may be necessary, appropriate, and as permitted in Section 33342, et seq., of CCRL in all instances except the taking of residential properties within the Added Territory, as provided above.

With respect to the Agency’s eminent domain authority within the Original Project Area, this Amendment extends the time limit with which the Agency may acquire property by eminent domain for an additional twelve (12) years from the date of adoption of the Amendment by the City Council, pursuant to CCRL Section 33333.2(a)(4). This Amendment does not modify the Agency’s eminent domain policy for the Original Project Area in any other way; within the Original Project Area, Section 403 of the Original Plan shall continue to apply with respect to eminent domain.

The Agency may purchase, lease, obtain option upon or otherwise acquire any interest in real property located in the Project Area by gift, devise, exchange, purchase, or any other means authorized by law including the use of eminent domain, except as otherwise excluded above, for the purpose of redevelopment. *Any eminent domain proceedings must commence within twelve (12) years of the effective date of the ordinance approving and adopting this Amendment.* Such time limitation may be extended only by amendment of this Amendment. Without limiting the powers otherwise available to the Agency, the Agency anticipates that acquisition of property will generally be achieved by cooperative negotiations between the owner of such property and the Agency.

Without the consent of the owner providing for use of the property in accordance with this Amendment, 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, unless provision for such acquisition is made in the agreement or the Agency finds, after notice to the owner and hearing, that acquisition of such property is necessary to fully effect the redevelopment goals and purposes of this Amendment. Every participation agreement shall be deemed to incorporate all provisions of this Amendment, including the foregoing sentence. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire any other interest in real property less than a fee interest.

If required by law, 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 Amendment and the owner fails or refuses to participate in the Amendment by executing a participation agreement.”

2. (Sec. 404) Acquisition of Personal Property

“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 this Amendment, the Agency is authorized to acquire personal property in the Project Area and, to the greatest extent allowed by law, within a survey area for purpose of redevelopment, by any lawful means.”

CERTIFICATE

STATE OF CALIFORNIA)

COUNTY OF KINGS)

CITY OF LEMOORE)

I, Nanci C. O. Lima, City Clerk of the City of Lemoore, do hereby certify the foregoing Ordinance was duly introduced at a Regular Meeting of the city Council of the City of Lemoore held on the 15th day of May, 2007 an passed and adopted at a Regular Meeting of the City Council held on the ___ day of _____, 2007.

DATED: _____

Nanci C. O. Lima, City Clerk