

RESOLUTION NO. 06-19

**A RESOLUTION OF THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS ON CERTAIN PROPERTY
(Owners of Subject Property Interest, if any: Ernest and Richard Lompa)**

This Resolution of Necessity is adopted with reference to the following facts, among others:

- A. The Richmond Community Redevelopment Agency (the "Agency") is pursuing the Macdonald 80 Retail Center Project (the "Project") for the south side of Macdonald from 45th Street west to 41st Street.
- B. The Project is for redevelopment purposes authorized by the Community Redevelopment Law, including the elimination of blight within the Downtown 10-A Redevelopment Project Area ("Project Area") by the elimination of vacant buildings and revitalization of underutilized sites, among other things.
- C. According to records obtained by the Agency, a Reciprocal Easement and Operation Agreement, Contra Costa Recorder's Instrument No. 85-7072 ("REA") (1) may encumber a portion of the real property included in the Project, including a "No Build Area" of approximately 239,555 square feet, and (2) may benefit real property commonly identified as 4000 Bissell Avenue, or Assessor's Parcel No. 517-280-006.
- C. The Project is planned such that approximately 64,137 square feet of the No Build Area will be improved. The Agency's review of the REA indicates that the REA does not presently prohibit the improvement of the No Build Area for the Project because the conditions of the REA which would trigger any obligation not to build have not been satisfied, among other reasons.
- D. Notwithstanding the foregoing, to the extent that the owner(s) of Assessor's Parcel No. 517-280-006 hold(s) any interest in the approximately 64,137 square feet planned for Project improvements which are subject to the REA, it is desirable and necessary for the Agency to acquire said interests (the "Subject Property Interests"), which are described and depicted in Exhibit A attached hereto and incorporated herein by reference.
- E. A Mitigated Negative Declaration was approved for the Project on September 14, 2004.
- F. The Agency is vested with the power of eminent domain to acquire real property by virtue of article 1, section 19 of the Constitution of the State of California; California's Eminent Domain Law, including sections 1240.010, 1240.110, and 1240.120 of Code of Civil Procedure; California's Community Redevelopment Law, including section 33391 of the Health & Safety Code; and Part VI.B.1 of the Agency's Redevelopment Plan for the Downtown Redevelopment Project Area 10A.
- G. According to a title report, Ernest and Richard Lompa are the owners of Assessor's Parcel No. 517-280-006, and therefore would be the owners of the Subject Property Interests, if any there are.
- H. Pursuant to the provisions of section 7267.2 of the California Government Code, the Agency has made an offer to the owners of record to acquire the Subject Property Interest for just compensation, as set forth in correspondence dated May 8, 2006.
- I. Pursuant to the provisions of section 1245.235 of the California Code of Civil Procedure, notice has been duly given to Ernest and Richard

Lompa, whose Subject Property Interests, if any, are to be acquired by eminent domain and whose name and address appear on the last Contra Costa County equalized assessment roll, and said property owners have been given a reasonable opportunity to appear and be heard before the Agency's governing board on the following matters:

Whether the public interest and necessity require the Project;

Whether the Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;

Whether the property interests sought to be acquired are necessary for the Project; and

Whether the offer required by Government Code section 7267.2 has been made to the record owners of the Subject Property Interests.

NOW, THEREFORE, BASED UPON THE EVIDENCE PRESENTED IN THE REPORT TO THE GOVERNING BOARD OF THE AGENCY DATED July 11, 2006, AS WELL AS INFORMATION SUBMITTED TO THE AGENCY DURING THE PUBLIC HEARING OR CONSIDERED BY THE REDEVELOPMENT AGENCY DURING ITS DELIBERATIONS ON THIS MATTER, THE GOVERNING BOARD OF THE AGENCY HEREBY FINDS, DETERMINES AND ORDERS, BY A VOTE OF TWO-THIRDS OR MORE OF ITS MEMBERS, AS FOLLOWS:

1. The Agency hereby finds that the facts set forth in the recitals to this resolution are true and correct, and support the factual basis for the Agency's adoption of this resolution.
2. The public interest and necessity require the Project.
3. The Project is planned and located in a manner which will be most compatible with the greatest public good and the least private injury.
4. The acquisition of the Subject Property Interests, if any, are necessary for the Project.
5. The offer required by section 7267.2 of the California Government Code has been made to the owner(s) of record of the Subject Property Interests, if any.
6. The Agency has complied with all the conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Subject Property Interests, as well as any other matter regarding the right to take the Subject Property Interests by eminent domain.
7. The Subject Property Interests, if any, are to be acquired for public uses, to wit, for the elimination of blight and the construction of a regional shopping center in the Project Area, pursuant to the authority granted by the California Constitution, California's Eminent Domain Law, California's Community Redevelopment Law, and the Agency's Redevelopment Plan for the Downtown Project Area 10A.
8. All environmental review required by law has been prepared and adopted. In this instance, a Mitigated Negative Declaration was adopted on September 14, 2004.
9. The Agency's Counsel or the Agency's Counsel's duly authorized designee is hereby authorized and directed to institute an action in eminent domain for the acquisition of the Subject Property Interests and to take such action as he or she may deem advisable or necessary in connection therewith.

10. The Agency may deposit with the State Treasury Condemnation Fund the probable compensation for, and obtain an order for prejudgment possession of, the Subject Property Interests.

I certify that the foregoing resolution was passed and adopted by the Richmond Community Redevelopment Agency, Richmond, California, at a regular meeting held on July 11, 2006, 2006 by the following vote:

AYES: Members Bate, Griffin, Rogers, Thurmond, Viramontes and Chairperson Anderson

NOES: Member McLaughlin

ABSTENTIONS: Member Butt

ABSENT: Member Marquez

DIANE HOLMES
Redevelopment Agency Clerk

(SEAL)

Approved:

IRMA L. ANDERSON
Agency Chair

Approved as to form:

JOHN EASTMAN
Agency Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of Resolution No. 06-19, finally passed and adopted by the Redevelopment Agency at a regular meeting held on July 11, 2006.