

ORDINANCE NO. 937

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, APPROVING AND ADOPTING AMENDMENT NO. 2 TO THE REDEVELOPMENT PLAN FOR THE LANCASTER FOX FIELD REDEVELOPMENT PROJECT

WHEREAS, in accordance with procedures codified in the California Community Redevelopment Law (CCRL, Health and Safety Code, Section 33000 *et seq.*), on December 20, 1982, by Ordinance No. 289, the City Council of the City of Lancaster (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Lancaster Fox Field Redevelopment Project (the "Project" or the "Project Area"); and on December 5, 1994, by Ordinance No. 671, the City Council amended the Plan to conform to certain time limit requirements mandated by CCRL Section 33333.6 (Assembly Bill 1290); and

WHEREAS, on August 21, 1995, the City Council adopted Ordinance No. 708, which further amended the Plan for the purpose of extending the eminent domain authority of the Lancaster Redevelopment Agency (the "Agency") to acquire property within the Project Area for a period of twelve (12) years from the effective date of Ordinance No. 708; and

WHEREAS, on May 22, 2007, in accordance with the requirement of CCRL Section 33342.7 (Senate Bill 53), the City Council adopted Ordinance No. 878 describing the Agency's program to acquire real property by eminent domain; and

WHEREAS, Ordinance Nos. 289, 671, 708 and 878 (hereafter referred to as the "Adopted Ordinances"), including the findings and determinations made by the City Council therein, are made part hereof by reference, and are final and conclusive, there having been no action timely brought to question the Plan or the Adopted Amendments; and

WHEREAS, in accordance with CCRL Article 12, commencing with Section 33450, the City Council may amend a redevelopment plan upon the recommendation of the Agency; and, in accordance with CCRL Section 33333.4(g)(2), based on certain findings, the Agency may extend the time limit for commencement of eminent domain proceedings to acquire property within the Project Area by amendment of the Plan; and

WHEREAS, to more effectively administer and implement redevelopment projects and programs in the Project Area, the Agency has proposed an amendment ("Amendment No. 2") to the Plan for the Project for the sole purpose of reinstating and extending the Agency's authority to acquire property, except property on which any persons reside, by eminent domain in the Project Area for 12 years from the date of the adopting Ordinance in accordance with CCRL Section 33333.4(g)(2); and

WHEREAS, the Agency has previously adopted Relocation Assistance/Property Acquisition Guidelines ("Relocation Guidelines") and Owner Participation and Re-Entry Rules ("Participation Rules") at the time of and as part of adoption of the Plan, which remain in effect and are unchanged by Amendment No. 2; and

WHEREAS, in accordance with CCRL Section 33385.3, the Agency determined that formation of a Project Area Committee (PAC) was not necessary for adoption of Amendment No. 2 because Amendment No. 2 adds no territory to the Project Area and does not permit eminent domain authority for acquisition of property on which any persons reside; and

WHEREAS, Amendment No. 2 does not change the focus or purposes of the Plan; and

WHEREAS, eminent domain is a necessary tool for achieving the public purposes of redevelopment; and it is the policy of the State of California that whenever the redevelopment of blighted areas cannot be accomplished by private enterprise acting alone and without public participation or assistance (as necessary or convenient) in land acquisition (including the planning and financing of land assembly), clearance, and improvement, it is in the public interest to: i) judiciously employ the power of eminent domain in conformance with all rules and prohibitions; and ii) advance or expend public funds for these purposes; all to provide a means by which blighted areas may be redeveloped or rehabilitated; and

WHEREAS, California law promulgates strict guidelines and limitations on any exercise of eminent domain and adequate protection for property owners; and

WHEREAS, the Planning Commission of the City of Lancaster (the "Planning Commission") has submitted to City Council its report (the "Conformity Report"), adopted by Planning Commission Resolution No. 09-27 on September 21, 2009, that Amendment No. 2 does not affect, and furthermore is consistent with the City's General Plan, and the Planning Commission has submitted its recommendation concerning Amendment No. 2; and

WHEREAS, the Agency has caused to be prepared and has reviewed and approved the Agency's Report to the City Council (the "Report to Council") on Amendment No. 2 as required by CCRL Sections 33457.1 and 33352, and based thereon, the Agency has made findings, in accordance with CCRL Section 33333.4(g)(2)(B) that there is substantial evidence that significant blight remains in the Project Area and this blight cannot be eliminated without the use of eminent domain; and

WHEREAS, the Agency has caused an initial environmental study to be prepared and based thereon, the Agency determined that a Negative Declaration of Environmental Impact (the "Negative Declaration") be prepared for Amendment No. 2 in accordance with the provisions of the California Environmental Quality Act ("CEQA Statutes," Public Resources Code Section 21000 *et seq.*, and "CEQA Guidelines," 14 California Code of Regulations, Section 15000 *et seq.*; collectively the CEQA Statutes and the CEQA Guidelines are referred to as CEQA) and CCRL Section 33457.1; and

WHEREAS, the Agency conducted a community workshop on October 29, 2009 for the purpose of providing information about Amendment No. 2 to interested and affected property owners, business tenants and residents, and has received their input; and

WHEREAS, the Plan, the Adopted Amendments, the Relocation Guidelines and Participation Rules, the draft Amendment No. 2, the Report to Council, the Conformity Report, legal description and map of the Project Area, and the Negative Declaration are on file in Agency offices, 44933 N. Fern Avenue, Lancaster, California 93534 and are available for public inspection; and

WHEREAS, the City Council and the Agency held a joint public hearing on November 10, 2009 in City Council Chambers, Lancaster City Hall, 44933, N. Fern Avenue, Lancaster, California; and

WHEREAS, notice of said joint public hearing was duly and regularly published in a newspaper of general circulation in the City, once a week for three successive weeks prior to the date of such joint public hearing and a copy of said notice was mailed by first class mail to each last known assessee of each parcel and to all known residents and businesses located on each parcel in the Project Area not less than thirty (30) days prior to the date of commencement of the joint public hearing and affidavits of such publication and such mailing are on file with the City Clerk and/or the Agency; and

WHEREAS, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each affected taxing agency which receives taxes from property in the Project Area; and

WHEREAS, the Agency, as the Lead Agency in accordance with CEQA, has approved and adopted the Negative Declaration prepared pursuant to CEQA and CCRL requirements for Amendment No. 2; and

WHEREAS, the City Council, as a responsible agency and the legislative body, has reviewed, considered and adopted the Negative Declaration for Amendment No. 2; and

WHEREAS, the Agency has approved Amendment No. 2, recommended that City Council consider and adopt Amendment No. 2, and taken all other actions required by law to prepare and present Amendment No. 2; and

WHEREAS, the City Council has considered the Conformity Report and recommendation of the Planning Commission, the Report to Council and the recommendation of the Agency, Amendment No. 2, the related Negative Declaration, the related Report to Council, and public input from the community workshop; has provided an opportunity for all persons to be heard regarding Amendment No. 2 and the related Negative Declaration; and has received and considered all evidence and testimony presented for or against any and all aspects of Amendment No. 2.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES ORDAIN AS FOLLOWS:

Section 1. The above facts are true and correct and a substantive part of this Ordinance.

Section 2. The document entitled, "*Amendment No. 2 to the Redevelopment Plan for the Lancaster Fox Field Redevelopment Project*," which is on file in the office of the City Clerk and in Agency offices, is incorporated herein by reference.

Section 3. As established in Section 1 of Ordinance No. 289, the purposes and intent of the City Council with respect to the Project are to eliminate conditions of blight in the Project Area and to prevent their reoccurrence, and to accomplish those actions described in subsections (c) through (f) of Section 1 of Ordinance No. 289.

Section 4. The purposes and intent of the City Council with respect to Amendment No. 2 are to reinstate and extend the period of time to exercise the power of eminent domain in the Project area as a redevelopment plan implementation tool intended to help accomplish the purposes and intent of the City Council as expressed in Ordinance No. 289 by eliminating the remaining significant conditions of blight in the Project Area.

Section 5. Based on the substantial evidence in the record, including, but not limited to, the Report to Council prepared in accordance with CCRL Sections 33457.1 and 33352, and all documents referenced therein, and all evidence and testimony received at the joint public hearing on adoption of Amendment No. 2, the City Council hereby makes the following findings and determinations as warranted by Amendment No. 2:

a) Amending the Plan by adopting Amendment No. 2 is necessary and desirable to complete the redevelopment of the project area and to increase the probability of achieving the goals and objectives of the Plan for the Project Area.

b) The City Council hereby finds significant conditions of blight remain within the Project Area which cannot not be eliminated without extending the period of time to exercise eminent domain authority to acquire property on which no persons reside. The Project Area continues to be a blighted area suffering physical and economic liabilities, the redevelopment of which continues to be necessary to effectuate the public purposes declared in the CCRL. Such conditions documented during the Plan's adoption process include, but are not limited to: i) economic dislocation, deterioration, or disuse resulting from faulty planning; ii) the laying out of lots in disregard of the contours and other topography or physical characteristics of the ground and surrounding conditions; iii) the existence of inadequate public improvements, public facilities, open spaces, and utilities which cannot be remedied by private or governmental action without redevelopment; iv) the prevalence of depreciated values, impaired investments and social and economic maladjustment; and v) the existence of lots or other areas which are subject to being submerged by water.

This finding is based on the substantial evidence provided by the Report to Council prepared for Amendment No. 2; specifically:

1). Section 4.1 detailing inadequate public improvements, public facilities and utilities in the Project Area; e.g. sewer utilities, water utilities, flood control improvements, storm water drainage facilities and streets, curbs and gutters; and

2) Section 4.2 detailing physical blight in the form of subdivided land haled in divided and widely scattered ownership; and

3) Section 4.3 detailing economic conditions in the Project Area, including, in part, depreciated and stagnant property values, abnormally high vacancy and/or low lease rates; and economic dislocation and disuse due to market impairment from inadequate industrial facility mix, parcels of inadequate size for development; and inaccessible or landlocked parcels;

4) Section 5.1 identifying the reasons for extending the Plan's eminent domain authority; and

5) Section 5.2 describing why such blight cannot be eliminated without the use of eminent domain.

As evidenced in the Agency's Report to Council for Amendment No. 2, the foregoing combination of blighting conditions continue to cause a reduction of, or lack of, proper utilization of the Project Area that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. The re-establishment of eminent domain authority will help the Agency to more effectively implement the Plan and to carry out Agency redevelopment goals and objectives within the Project Area by providing an important tool to help accomplish site assembly and public improvements construction, and to help facilitate Agency redevelopment programs that are necessary to lessen the remaining blighting conditions found in the Project Area.

c) Amending the Plan by adoption of Amendment No. 2 would provide a fortified redevelopment tool to the Agency, helping the Agency to redevelop the Project Area in conformance with the provisions and intent of the CCRL, and in the interests of the public peace, health, safety and welfare. Implementation of the Plan as amended by Amendment No. 2 will assist in fulfilling the objectives of the CCRL by helping to eliminate conditions of blight within the Project Area. The Plan provides for, among other things the following implementation actions:

1. Acquisition, installation, development, construction, reconstruction, redesign, replanning, or reuse of streets, utilities, curbs, gutters, sidewalks, street lighting, landscaping, and other public improvements, facilities, utilities or other structures;
2. Acquisition and disposition of property acquired for uses in accordance with the Plan as amended by Amendment No. 2;
3. Redevelopment of land by private enterprise or public agencies for uses in accordance with the Plan as amended by Amendment No. 2;
4. Construction and improvement of recreational facilities, community facilities, parking facilities and other public facilities;
5. Acquisition, construction, or rehabilitation of housing for low and moderate income families, seniors and handicapped individuals;
6. Financing of the construction of residential, commercial and industrial buildings and the mortgage financing of residential, commercial and industrial buildings, as permitted by applicable State and local laws, to increase the residential, commercial and industrial base of the City and the number of temporary and permanent jobs within the City;
7. Providing replacement housing, if any is required;
8. In appropriate cases, rehabilitation of structures and improvements or development of vacant land by present owners, their successors and the Agency for uses in accordance with the Amended Plan, as amended by the Amendment; and
9. Such other actions as may be permitted by law.

These actions are essential not only to encouraging private investment and eliminating the conditions of blight in the Project Area but also in preventing their reoccurrence.

d) The authority to condemn real property except property on which any persons reside, as provided for in Amendment No.2, is necessary to the execution of the Plan, and adequate provisions have been made for payment for property to be acquired as provided by law. To facilitate redevelopment, the Agency may need to assemble parcels to produce more cohesive and economically feasible development within the Project Area. The Agency is required to comply with all State laws pertaining to a public agency acquiring real property, whether acquisition is by condemnation or negotiation, and these laws require paying just compensation for all real property acquired. The Agency shall not proceed with any voluntary acquisition or with condemnation of real property for which funds are not available.

e) In the event that it will be necessary to relocate any families and persons as a result of the implementation of the Plan, as amended by Amendment No. 2, the Agency has a feasible method or plan for the relocation of families and persons displaced from the Project Area if the Plan may result in the temporary or permanent displacement of any occupants of housing facilities in the Project Area.

f) In the event that it will be necessary to relocate any families and persons as the result of implementation of the Plan, there are, or shall be provided, in the Project Area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons, if any, who may be displaced from the Project Area, decent, safe and sanitary dwellings equal in number to the number of and available to such displaced families and persons and reasonably accessible to their places of employment.

g) Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1 of the CCRL. To the extent required by the CCRL, dwelling units housing persons and families of low or moderate income shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5, 33413 and 33413.5 of the CCRL.

Section 6. The City Council is satisfied that permanent housing facilities will be available within three years from the time occupants of the Project Area may be displaced and that pending the development of such facilities, there will be available to such occupants who may be displaced adequate temporary housing facilities at rents comparable to those in the City at the time of their displacement.

Section 7. The City Council hereby affirms the Agency's determination in accordance with CCRL Section 33385.3 that formation of a PAC is not necessary for adoption of Amendment No. 2 because: i) the Agency's eminent domain policy prohibits the use of eminent domain to acquire property on which any persons reside, and ii) Amendment No. 2 adds no territory to the Project Area.

Section 8. The City Council is satisfied and therefore finds and determines that its findings and determinations, as set forth above, are all the findings and determinations warranted under Health and Safety Code Sections 33457.1 and 33367 by Amendment No. 2.

Section 9. Written objections to Amendment No. 2 filed with the City Clerk before the hour set for the hearing on the Amendment and all written and oral objections presented to the City Council at the hearing have been considered and all such objections, if any, are hereby overruled.

Section 10. Amendment No. 2 is hereby approved and adopted, and is hereby designated as an official amendment to the Plan.

Section 11. Ordinance Nos. 289 and 671 are continued in full force and effect except as amended by this ordinance.

Section 12. If any part of this Ordinance, or Amendment No. 2 which it approves, is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, or of Amendment No. 2, and this City Council hereby declares that it would have passed the remainder of the Ordinance or approved the remainder of Amendment No. 2 if such invalid portion thereof had been deleted.

Section 13. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out Amendment No. 2.

Section 14. The City Clerk is hereby authorized and directed to certify to the passage of this Ordinance by the City Council and shall cause it to be published as required by law.

Section 15. This Ordinance shall be in full force and effect thirty (30) days after adoption.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 10<sup>th</sup> day of November, 2009 and placed upon its second reading and adoption at a regular meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

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GERI K. BRYAN, CMC  
City Clerk  
City of Lancaster

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R. REX PARRIS  
Mayor  
City of Lancaster



Ordinance No. 937

Page 9

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss  
CITY OF LANCASTER             )

CERTIFICATION OF ORDINANCE  
CITY COUNCIL

I, \_\_\_\_\_, \_\_\_\_\_ City of Lancaster, California,  
do hereby certify that this is a true and correct copy of the original Ordinance No. 937, for which the  
original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

(seal)