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ORDINANCE NO. 371

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, CALIFORNIA, CONTAINING A DESCRIPTION OF THE ARVIN COMMUNITY REDEVELOPMENT AGENCY'S PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN FOR THE ARVIN REDEVELOPMENT PROJECT AREA.

WHEREAS, the Arvin Community Redevelopment Agency ("Agency") has been designated as the official redevelopment agency in the City of Arvin 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, the City Council adopted Ordinance No. 290 on July 2, 1996, approving and adopting the Arvin Redevelopment Project Area ("Project Area"); and

WHEREAS, Section VI (B) of the Arvin Redevelopment Project Area Plan ("Plan") contains the authority regarding Agency use of eminent domain; and

WHEREAS, Section 33342.7 of the Health and Safety Code, added by Senate Bill 53 ("SB 53"), which took effect on January 1, 2007, requires the 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 ARVIN, 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 applicable 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 and it would have passed the remainder of this ordinance if such invalid portion hereof had been deleted.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

SECTION 5. The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

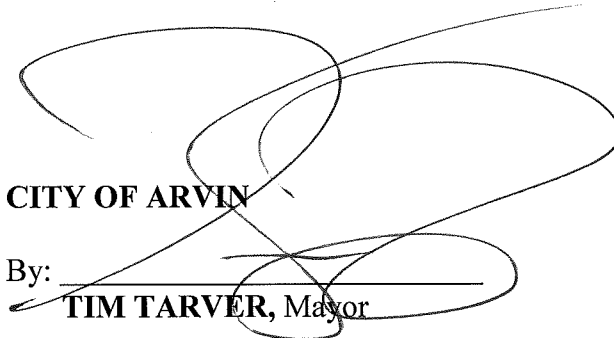
**I HEREBY CERTIFY** that the foregoing ordinance was passed and adopted by the City Council of the City of Arvin at a regular meeting thereof held on the 26<sup>th</sup> day of June, 2007 by the following vote:


**AYES:** CM Ojeda, CM Brar, MPT Flores, Mayor Tarver

**NOES:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** CM Stoner

**CITY OF ARVIN**  
By:   
**TIM TARVER, Mayor**

ATTEST  
  
**CECILIA VELA, City Clerk**

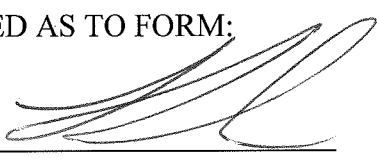
APPROVED AS TO FORM:  
By:   
**LAURA OLIVIER, City Attorney**  
**KLIEN, DENATALE, GOLDNER, LLP**

EXHIBIT A

DESCRIPTION OF PROGRAM TO ACQUIRE REAL PROPERTY  
BY EMINENT DOMAIN FOR THE ARVIN  
REDEVELOPMENT PROJECT AREA

**INTRODUCTION**

This document is the Senate Bill 53 Program ("SB 53 Program") for the Arvin Redevelopment Project Area, ("Project Area" or "Redevelopment Plan") of the Arvin Community Redevelopment Agency ("Agency"). Section 33342.7 of the California Community Redevelopment Law, Health and Safety Code ("Law"), requires the City Council to prepare and adopt this SB 53 Program by ordinance. The purpose of the SB 53 Program is to describe the Agency's program to acquire real property by eminent domain.

**PROGRAM FOR ARVIN REDEVELOPMENT PROJECT AREA**

***Eminent Domain Authority and Restrictions in the Redevelopment Plan***

The Redevelopment Plan for the Project Area authorizes, but does not require, the Agency to acquire all real property and real property interests by a number of means, including under certain circumstances by eminent domain, subject to restrictions.

Specifically, Section VI (B) of the Redevelopment Plan reads:

"1. Acquisition of Real Property

Except as specifically exempted herein, the Agency may, but is not required to, acquire or obtain options to acquire all real property located in the Project Area by gift, devise, exchange, purchase, eminent domain or any other lawful method whatsoever. The Agency may also acquire any other interest in real property less than a fee interest.

Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency to acquire real property in the Project Area. The power of eminent domain shall not be exercised, however, when the conditions described in either subdivision a. or b. or c. or d. below exist:

a. The property in question contains a structure or structures lawfully occupied at the time of proposed acquisition as the residential dwelling unit of one or more persons (including any property so occupied as a residential dwelling which also includes one or more non-residential structures); or

b. The property in question is owned by a public body and that public body has not consented to the exercise of the power of eminent domain by the Agency; or

c. The property in question is improved with a structure and, although not conforming to the Plan, the Agency has determined that the property and the structure can so conform pursuant to an owner participation agreement and that the owner is faithfully performing under the terms of the owner participation agreement; or

d. The property in question is improved with a structure and, in the sole determination of the Agency:

(1) The property is not needed for those specific activities outlined in the Plan, including for development by a master developer pursuant to Section C.2 below.

(2) The property is not needed for the development of replacement housing for those displaced by Agency activity, if any;

(3) The property is not needed for any other public improvement or facility;

(4) The property is not needed to promote historical or architectural preservation;

(5) The property is not needed to remove a blighting influence on surrounding properties which prevents achievement of the objectives of this Plan;

(6) The property is not needed for the elimination of environmental deficiency including among other things, inadequate circulation, access or street layout, incompatible and mixed uses, overcrowding and small parcel size; or

(7) The property is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation and utilities.

Notwithstanding the foregoing limitations, the Agency may, with the prior written consent of the affected property owner, use the power of eminent domain to acquire property within the Project Area that is otherwise excluded from the exercise of the power of eminent domain.

The Agency must commence eminent domain proceedings with respect to any property which it intends to acquire within twelve years of the date of adoption of the ordinance including such property in the Project Area. This time limit for commencement of eminent domain proceedings may be extended only by amendment of the Plan.

Prior to any acquisition through eminent domain the Agency shall adopt a resolution declaring a need to acquire any specific property and authorizing the acquisition by such method. 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 property devoted to a public use, if it is transferred to private ownership before the Agency completes land disposition within the Project Area. ”

### ***Need for Eminent Domain Authority in the Redevelopment Project Area***

As provided in Section VI (B) of the Redevelopment Plan, it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, for the power of eminent domain to be authorized by the Agency to acquire real property in the Project Area.

More specifically, eminent domain is an essential component of the Agency's redevelopment plan, where consolidation of undeveloped and underdeveloped lots is one of the many reasons why redevelopment exists in the City. The Project Area contains instances of conflicting land uses and undersized and irregular parcels under multiple ownership that make it very difficult for the private sector to invest in redevelopment projects. By today's standards, larger parcels are needed to achieve successful development in this area.

The Agency has had eminent domain authority as an option to address projects in the Project Area since July 2, 1996. Under the Law, the time limit on eminent domain lasts for 12 years, unless extended by amendment. The time limit will expire on June 1, 2008.

The objectives of the Redevelopment Plan found in Section IV cannot be addressed without the ability to acquire and assemble property. With eminent domain, the Agency has the ability to become more involved in achieving the Redevelopment Plan goals, by removing fractured ownership, creating larger, more developable parcels, and removing incompatible and conflicting uses. While relatively few acquisition projects may require the Agency to implement its eminent domain authority, the ability to use this tool can also be essential in negotiations to acquire property. *The program is not proposing that any particular property be acquired through the use of eminent domain at this time. Simply because properties are located in an area where the Agency is permitted to use eminent domain does not necessarily mean that a property will in fact be acquired by the Agency.* Nonetheless, the Agency would anticipate the use of eminent domain where the Agency is unable to obtain necessary properties through good faith negotiations.

### **Property Acquisition Process**

In the event that eminent domain is necessary and the Agency has eminent domain authority, prior to condemning property the Agency is required as a public agency to follow a process prescribed in state law as found in substantial part in Government Code § 7260 et seq. and Code of Civil Procedure § 1230.010 et seq. or as may later be amended by the legislature.