THE CITY OF SAN DIEGO

DATE ISSUED: November 15, 2005 REPORT NO. RA-05-36

ATTENTION: Government Efficiency and Openness Committee
Agenda of November 21, 2005

SUBJECT: City of San Diego Redevelopment Agency ("Redevelopment Agency")
Use of Eminent Domain

REFERENCE: Redevelopment Agency Report No. RA-05-30

SUMMARY

Issues:

1.) Should the Government Efficiency and Openness Committee accept this report?
2.) Should the Government Efficiency and Openness Committee accept the City Attorney's report regarding the definition of eminent domain?
3.) Should the Government Efficiency and Openness Committee refer these matters to the Redevelopment Agency for consideration?

Staff Recommendations:

1.) Accept this report.
2.) Accept the City Attorney's Report regarding the definition of eminent domain.
3.) Refer these matters to the Redevelopment Agency for consideration.

BACKGROUND

As requested by the Chair of the Government Efficiency and Openness Committee, the Redevelopment Agency prepared and submitted an information report regarding Agency use of eminent domain and the eminent domain process in the City of San Diego. At the September 12, 2005 committee meeting, a power point presentation was provided by the Assistant Executive Director of the Redevelopment Agency, Vice-President Real Estate Operations of the Centre City Development Corporation and President of the Southeastern Economic Development Corporation on the historical context of the creation of California Redevelopment Law (CRL), redevelopment plan adoption and implementation, owner participation and eminent domain processes. It included a discussion of the types of implementing activities that have historically involved the Redevelopment Agency use of the

eminent domain process over the last 30 years and a look into the future as to the types of activities that could potentially cause the Redevelopment Agency to consider initiating the eminent domain process to achieve project area goals, objectives and implementation plans.

An additional power point presentation was provided by Katherine Frostrom, an attorney with the law firm of Thornes, Bartolotta & McQuire also at the request of the Chair regarding their firm's perceptions regarding the "misuse" of eminent domain. This law firm currently represents the plaintiff in an eminent domain action in the Superior Court of California for the County of San Diego entitled "Redevelopment Agency of the City of San Diego v. Ahmad Mesdaq, et al." Ms. Frostrom's presentation included several suggestions for improvement to the City eminent domain policy.

Following the formal presentations, the Committee received public comment from several speakers. Many of the speakers were from the City Heights Redevelopment Project Area and spoke in opposition to the use of eminent domain by the San Diego Model School Development Agency (SDMSDA). The SDMSDA is a joint powers authority made up of the City of San Diego, the City of San Diego Housing Authority (Housing Authority), Redevelopment Agency and San Diego Unified School District (School District).

The GE&O committee directed the City Manager, City Attorney and the Redevelopment Agency to return with an analysis of the impact of the following suggestions presented by Thornes, Bartolotta & McQuire and implementation recommendations:

1. Redefine the term "public use" to exclude the use of eminent domain for taking private property for private gain and return to the GE&O committee with draft language within 45 days.

2. Exercise more control over purchase negotiations by using third party mediators or other unbiased individuals to ensure that property owners are not threatened, intimidated, or taken advantage of.

3. Provide meaningful owner participation process to ensure that small business and homeowners are treated as valued members of the community.

4. Propose options to implement a consistent and fair process that forces developers to demonstrate in writing that they have offered private property owners fair market value for any property before the eminent domain process can begin.

5. Realtors should be educated about what it means to buy property in a designated redevelopment area and should be required to disclose that fact to new property purchasers.

6. Disposition and Development Agreement negotiations should be a matter of public record, not done in secret, with no notice to the public.

7. The Polanco Act should be used responsibly and only where there is a specifically identified contaminant which must be cleaned within the immediate future.

8. The city must be required to support its findings with actual evidence rather than conclusory statements.

9. Develop a system that ensures property owners will be offered fair compensation for their property on a consistent basis.

10. Allow private property owners displaced or relocated by condemnation to take their prior ownership tax basis with them to their new property.

DISCUSSION

The majority of September 12th public comment related to the potential use of eminent domain to acquire residential property by the San Diego Model Schools Development agency. The role and powers of the San Diego Model Schools Development Agency and the City of San Diego Redevelopment Agency (Redevelopment Agency) vary and are discussed separately as follows.

San Diego Model Schools Development Agency (SDMSDA) and Eminent Domain
The SDMSDA is a joint powers agency formed to facilitate a collaborative effort among four local agencies to develop an urban village in the City Heights neighborhood of San Diego. As envisioned, the project could incorporate a new elementary school, housing, open space, stores, a health clinic and day care center.

This joint powers agency is led by the Chief Executive Officer of the San Diego Housing Commission. The SDMSDA Board of Directors includes representatives from the City of San Diego, San Diego City Schools, the San Diego Housing Commission and the Redevelopment Agency. A City Heights community representative also serves on the Board.

The SDMSDA has legislative power to utilize eminent domain to carry out development plans. Any such eminent domain action would be considered by the SDMSDA as a whole, not the Redevelopment Agency, City Housing Authority or School District acting alone.

Since the GE&O meeting of September 12th, the SDMSDA has met and discussed the proposed boundaries of the project based on public input resulting from a comprehensive outreach effort by the Master Developer. The SDMSDA modified the boundaries of the area to be revitalized on September 22, 2005. As a result of that meeting, the project has gained considerable public support and many of the speakers at the GE&O meeting spoke in favor of the new revised project before the SDMSDA.

The Redevelopment Agency and Eminent Domain

The State Constitution provides local governing bodies, including redevelopment agencies the authority to acquire and assemble private property for the purpose of accomplishing necessary

public benefit projects. Cities, counties, schools, special districts, CalTrans, utilities and others also have the authority to condemn property for public use. The two fundamental constitutional restraints on the power of eminent domain are that the taking be for a "public use or purpose" and that "just compensation" be paid for the property taken.

In order for communities to successfully revitalize urban areas, the California Redevelopment Law (CRL) provides redevelopment agencies with the ability to take private property for transfer to another private entity for the purpose of eliminating blight within a specific community pursuant to a redevelopment plan and that the implementation of the redevelopment plan is the "public purpose." This element of a redevelopment agency's power distinguishes the agency's scope of authority from that of a municipality, which generally cannot take property for re-conveyance to another private party.

Conditions and uses that contribute to deterioration and blight present a significant challenge to the redevelopment of an urbanized area. This includes the lack of appropriately sized parcels of land to provide development sites for desired uses and neighborhood amenities necessary to bring the community goals and objectives of the area to fruition. The CRL provides redevelopment agencies with the power to assemble property through negotiated purchases and, when necessary and appropriate, eminent domain. The existence of a redevelopment agency's power of eminent domain within a redevelopment project area demonstrates its commitment to a public-private collaboration for the purpose of improving the community. Through this, collaboration, new housing, jobs, business opportunities and needed pubic infrastructure are created. In San Diego, this underlying sense and acknowledgement of the need for change results in very few eminent domain acquisitions. In fact, the vast majority of these acquisitions are negotiated purchases by the Redevelopment Agency.

Many property owners realize certain tax and reinvestment benefits by selling their property under the "threat of eminent domain." These benefits have great value to the sellers and contribute to many successful privately negotiated "private to private" transactions. This valuable benefit will be lost should the Redevelopment Agency eliminate the use of eminent domain for "private to private" development activities.

When a redevelopment plan is being considered for adoption, the Agency may limit its authority for the use of eminent domain in that plan. The redevelopment plans for the City Heights, Crossroads and Grantville project areas include restrictions on the use of eminent domain within their respective project areas.

The Redevelopment Agency makes every effort to encourage property owners to participate in the implementation of redevelopment plans, community plans and planned district ordinances. It is only if the owner participation process and negotiation efforts to purchase the subject property do not succeed, that the Agency may seek to acquire property through its power of eminent domain.

Applicable law requires that the Redevelopment Agency consider the acquisition of property through the use of eminent domain as a last resort action when the desired redevelopment activity contemplates the use of non-Redevelopment Agency owned property and such property

is necessary to facilitate successful redevelopment.

Analysis of the Thornes, Bartolotta & McQuire Recommendations:

1. Redefine the term "public use" to exclude the use of eminent domain for taking private property for private gain and return to the GE&O committee with draft language within 45 days.

The City Attorney, under separate cover, has prepared a response as directed.

The final decision as to whether or not the Redevelopment Agency exercises its eminent domain authority rests in the hands of the Mayor and City Council, sitting as the Redevelopment Agency, where the use of eminent domain is determined on a case by case basis. Prior to the use of eminent domain authority, a resolution of necessity must be considered and adopted by the Redevelopment Agency. This power is provided through the State constitution and California Redevelopment Law (CRL).

Conclusion: The Redevelopment Agency (currently the Mayor and Council) has the power to approve or disapprove a resolution of necessity on a case by case basis. Amending all of the Redevelopment Agency's redevelopment plans or taking some other action to effectuate a limit on the taking of private property for private gain is not necessary to limit this activity. A blanket prohibition of such action would substantially alter the Redevelopment Agency's' ability to implement comprehensive plans to revitalize the blighted areas of the City and cause an acute diminution in potential investment and tax increment. It would also require each entity to amend all existing plans that have been adopted pursuant to community input and include such eminent domain authority. Moreover, any such amendments will have the effect of potentially compromising existing projects in the pipeline.

Recommendation: New legislation is being introduced and considered at both the federal and state levels. The Redevelopment Agency, its Corporations, Intergovernmental Relations and the City Attorney's Office should continue to partner in monitoring and submitting periodic updates to the Redevelopment Agency.

2. "Exercise more control over purchase negotiations by using third party mediators or other unbiased individuals to ensure that property owners are not threatened, intimidated or taken advantage of"

The Redevelopment Agency currently utilizes professional acquisition agents as suggested. Owners are provided detailed information about the process, options and actions they may want to pursue, to protect their interests such as the hiring of a second appraiser. In some cases, the Redevelopment Agency hires a "review" appraiser to look at both appraisals and assist both parties in determining a fair and satisfactory "purchase price/value." In addition, professional relocation experts work with the tenants and business owners to assess their specific needs and desires as part of a prescribed procedure to find a variety of suitable relocation sites for consideration and approval, if appropriate. Should any property owner feel threatened,

intimidated or taken advantage of, they have the right to convey that to the Redevelopment Agency, City Council, and/or in the case of CCDC/SEDC their Board of Directors.

Conclusion: The Redevelopment Agency should continue its practice of utilizing the controls suggested.

Recommendation: Incorporate language in DDA's and/or other development –type agreements that expressly prohibits threats, and/or intimidation during purchase negotiations.

3. "Provide a meaningful owner participation process to ensure that small business and homeowners are treated as valued members of the community"

The Redevelopment Agency has a long history of partnering with property owners through the Rules Governing Participation by Owners and Preference for Businesses to Re-enter for each project area in concert with the adoption and implementation of a redevelopment plan. These rules are adopted pursuant to California Redevelopment Law. Owners and business are afforded fair and reasonable opportunities to participate in the redevelopment of the project area through these rules. The rules include procedures that are to be followed by the Redevelopment Agency as well as potential participants. The Redevelopment Division is reviewing the timelines associated with their Owner Participation process and considering extending the timeframe for responses.

Conclusion: The Redevelopment Agency currently has a meaningful owner participation and business reentry process in place and should continue to aggressively partner with project area property owners.

4. "Developers should be required to put their money where their mouth is before the City will use its extremely damaging power of eminent domain"

The economics of a development transaction, the growing strength and vitality of a project area and the general state of the economy all, either collectively or singularly, impact the level and ability of a developer to afford to "make the Agency whole" when the Agency is assisting with the acquisition of property. This ability varies from project to project and may be further impacted by changes in the economic cycle. Projects such as affordable housing generally need a land write down, and, oftentimes, additional financial assistance. In some cases, for-profit, market rate projects may permit developers to fund all or certain aspects of the acquisition costs.

Due to the current strength of the development market in downtown, CCDC has been able to create a model for property owners/developers to "make the Agency whole" where the project is private, financially feasible, for-profit, and a market rate development project.

Redevelopment projects will continue to play a vital role in meeting the City's housing and jobs goals in the future. Smart growth will put more demands on the Redevelopment Agency to assemble parcels of land that will accommodate high density developments. Most sites within redevelopment project areas are comprised of multiple parcels under separate ownership. As redevelopment project areas improve, more non-subsidized, market rate projects will be possible

and many of these developers will be able to assist the Agency in the acquisition process by advancing funds, as is currently the case in downtown San Diego.

CCDC Example: CCDC is called upon by property owners to assist in the acquisition of adjacent properties to create appropriately sized development sites to meet the development goals for the redevelopment program and community plan. These requests are received after the property owner has exhausted all customary and reasonable means to acquire the desired property but has not been able to negotiate the purchase. If the owner's development proposal fulfills the goals and objectives of the redevelopment and community plans, CCDC may consider initiating the owner participation process by notifying property owners of the property required and inquiring as to their decision to participate and to assess any participation intentions and/or desires of that owner in compliance with the applicable redevelopment and community plan.

Any property owner seeking to become involved in the owner participation process understands that CCDC will be interested in only those projects that will result in "making the Agency financially whole" for any potential public costs incurred by the Redevelopment Agency. It is only after a fair and thorough Owner Participation solicitation process that the Redevelopment Agency's participation in any acquisition process would be considered. At that time, any selected developer-owner would be required to deposit funds with the Redevelopment Agency for use to cover all acquisition costs.

Conclusion: The Redevelopment Agency currently takes every opportunity to have developers of property requiring Redevelopment Agency assistance in the acquisition process to "put their money where their mouth is". As project areas grow, this will be a tool utilized throughout the Redevelopment Agency's project areas.

Recommendation: For a one year trial period, the Redevelopment Division will extend the initial Owner Participation process from 30 to 60 days and report back to the Redevelopment Agency any benefits or issues that arise as a result.

5. Realtors should be educated about what it means to buy property in a designated redevelopment area and should be required to disclose that fact to new property purchasers.

A document is recorded against every property within a redevelopment project area stating the fact that said land lies within the boundaries of the specific redevelopment project area. This document is reflected on all preliminary title reports. Real estate agents and brokers are mindful of all such conditions of title in their role with buyers and sellers. Brokers' awareness of redevelopment can vary from project area to project area in large part due to the level of redevelopment activity, but agents and brokers are quick to call the appropriate redevelopment staff to gain additional information.

Conclusion: Agency and Corporation staff will continue to provide information to the real estate community as well as owners, buyers and sellers about the significance of the redevelopment project area designation and redevelopment activities, plans and programs. Meetings will be scheduled with local real estate associations to enhance the current practice of Agency and Corporation staff.

Recommendation: Beginning January 1, 2006, the Redevelopment Division staff will take the lead to provide a coordinated outreach effort to Realtor Associations to include information sessions regarding redevelopment and submit periodic reports regarding the meetings held.

6. DDA negotiations should be a matter of public record, not done in secret, with no notice to the public.

Agency development agreements are considered through a public hearing process which provides for a published public notice. The proposed transactions are considered in a public forum by the applicable, project area committee, redevelopment corporation board, Redevelopment Agency and City Council. These agreements are made available for public review. Public notice requirements provide for the notice of time and place of hearing and must be published once a week for two weeks.

Conclusion: The Redevelopment Agency and the redevelopment corporations will continue to insure that Redevelopment Agency negotiation and development agreements will be considered in an open public forum with detailed written information as provided by the codes and CRL.

Recommendation: As part of the work plan developed to analyze the proposed restructure of the Redevelopment Division, the Division is in the process of awarding a consultant contract to evaluate best management practices for two redevelopment projects. Part of the scope of work is to evaluate public participation in the DDA process. The results of this activity will be included in the final staff report that will be submitted to the Redevelopment Agency.

7. The Polanco Act should be used responsibly and only where there is a specifically identified contaminant which must be cleaned within the immediate future.

The investigation of what is "already known" would be extremely short sited on the part of the public agency with the ability to determine the extent and nature of potential environmental problems that could be detrimental to individual projects and the redevelopment process as a whole. Most older urbanized areas have "Brownfield" issues resulting from earlier development practices that were not protective of the environment. There is a great variety and number of contaminants found within the urbanized areas that can have a tremendous impact on potential development projects if left to be found during the construction of the site.

One of the chief benefits of the Polanco Act is that it provides a vehicle for the Redevelopment Agency to recover costs for the investigation of properties. These investigations require the use of all available information (and taking what is now called "All Appropriate Inquiry" which requires examination and, where warranted, further testing to determine if a problem exists). It would not be prudent to eliminate the use of the Polanco Act to recover costs necessary to investigate a site. Downtown redevelopment has been dealing with "Brownfields" for almost 15 years and only investigates as needed to determine what remedy may be required during the construction phase. San Diego has become a national model for the effective revitalization of an urbanized area with known and potentially environmentally challenged properties. Naturally, you do not investigate for only what is known, as the essence of any investigation is to find what

is unknown. The Polanco Act greatly assists with this investigation and is a very effective tool. It would be a mistake to limit investigations to environmental challenges that are "known".

To date, the Redevelopment Agency has not charged property owners for the first level of investigation (Phase 1) even when that study suggests that more investigative work is required. The Redevelopment Agency has used the Poanco Act very cautiously and responsibly as a valuable and respected tool to assist in achieving the goals and objectives of redevelopment and community plans.

Conclusion: The Redevelopment Agency should continue to use the Polanco Act cautiously and responsibly to determine the necessary remediation measures to facilitate development and to achieve the goals and objectives of the community and redevelopment plans.

Recommendations: Continue actions above.

8. The City must be required to support its findings with actual evidence rather than conclusory statements of conclusion

It is extremely important that any action relating to eminent domain taken by the Redevelopment Agency be in conformance with applicable laws. Redevelopment Agency and corporation staff will work with the City Attorney and special legal counsel to ensure all actions are legally founded.

Conclusion: Redevelopment Agency and corporation staff will work with the City Attorney and special legal counsel to ensure all actions are well founded.

Recommendation: Collaborate with Agency, Corporation, City Attorney and special legal counsel to ensure all actions are legally founded.

9. Develop a system that ensures property owners will be offered fair compensation for their property on a consistent basis.

In most cases, it would not be prudent to eliminate the use of independent MAI appraisers as part of the eminent domain process by the Redevelopment Agency. Property owners are informed by the Redevelopment Agency of their options relating to the process and are strongly encouraged to hire their own appraisers and consultants to help them assess the fairness of the compensation offered by The Redevelopment Agency. The law requires that the agencies offer property owners no less than a "fair market offer" for their property. It must also be fully cognizant and protective of taxpayer's funds and guarding against the making of a "gift of public funds".

Conclusion: The Redevelopment Agency should continue to utilize qualified appraisers, consultants, and outside acquisition agents to ensure that property owners and tenants are treated honestly and fairly during the entire acquisition and relocation process.

Recommendation: Continue actions above.

10. Allow private property owners displaced or relocated by condemnation to take the prior ownership tax basis with them to their new property.

Section 2(d) of Article X111A of the California Constitution and the Revenue and Taxation Code generally provide that property tax relief shall be granted to any real property owner who acquires comparable replacement property after having been displaced by governmental acquisition or eminent domain proceedings. If the full cash value of the comparable replacement property does not exceed 120 percent of the award or purchase price of the property taken or acquired, then the adjusted base year value of the property taken or acquired shall be transferred to the comparable replacement property

In addition, the Internal Revenue Service provides favorable capital gains tax treatment and including an extended period to identify and purchase an exchange property. (IRS Publication 544 – Sales and Other Dispositions of Assets 2004)

Conclusion: Property owners currently have the benefits suggested.

GENERAL RECOMMENDATION

It is recommended that the Redevelopment Agency property acquisition process, inclusive of its use of eminent domain, be generally used as a last resort when a redevelopment activity is proposed on non-Redevelopment Agency owned property. Only after efforts to encourage property owners to participate or, negotiation efforts to purchase the property do not succeed, the Redevelopment Agency may seek to acquire property through its powers of eminent domain. The Redevelopment Agency shall follow an open, thorough public process to consider such action pursuant to the requirements of the Eminent Domain Law found in the Code of Civil Procedures.

The following provides a general outline of the major policy recommendations to be followed as part of the implementation process when a development activity is proposed for non-Redevelopment Agency owned real property.

When adopting redevelopment plans that include eminent domain authority the Redevelopment Agency will impose a time limit, not to exceed 12 years from the adoption of the redevelopment plan, for commencement of eminent domain proceedings to acquire non-Redevelopment Agency owned property within the redevelopment project area. This time limit may only be extended by amendment of the redevelopment plan. Such amendment would only be made pursuant to the adoption of an ordinance at a noticed public hearing by the Redevelopment Agency and the City Council containing the following findings:

a) Significant blight remains within the project area,

b) The adoption of the amendment and carrying out of the redevelopment plan is economically sound and feasible,

c) The condemnation of real property is necessary for the implementation of the

redevelopment plan and adequate provisions have been made for the payment of fair and reasonable compensation to property owners in accordance with applicable law.

d) The Redevelopment Agency has a feasible method or plan for the relocation of families and persons displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.

e) The elimination of blight and the redevelopment of the project area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the Redevelopment Agency.

2) The Redevelopment Agency will form a project area committee (PAC) in the event the Redevelopment Agency proposes to adopt a redevelopment plan containing the authority to acquire residential property by eminent domain, and substantial numbers of low-or moderate-income persons reside within the project area, or the plan contains a public project that will displace a substantial number of low-or moderate-income persons. The formation of a PAC will also apply to plan amendments that add eminent domain authority to the redevelopment plan for the acquisition of residential properties.

3) When a development project or activity is conceptually proposed for development on a specific site. The following process would be followed by the Redevelopment Agency:

a) The project proponent must demonstrate to the satisfaction of the Redevelopment Agency that the proposed project is reasonably suitable for the present and future use and redevelopment of the property and that the project proponent has the ability to timely plan, implement, finance and complete the proposed development activity.

b) Property owner(s) within the site are contacted in writing and provided a fair and reasonable opportunity to participate in the redevelopment of their property pursuant to the Owner Participation Rules.

c) The property owner(s) may within a reasonable period of time (not less than 60 days) submit a development proposal for consideration which may result in a development agreement with the Redevelopment Agency, or the owner may not be interested in participation, or the owner may submit a development proposal that is unacceptable to the Redevelopment Agency or elect not to participate.

d) If conflicts develop between the desires of an owner and other project proponents, the Redevelopment Agency may establish priorities and select a solution that is in the best interest of fulfilling the goals of the redevelopment plan and other applicable ordinances without undue emphasis on the generation of property tax increment funds.

i) If an owner's proposal is not acceptable to the Redevelopment Agency, the Redevelopment Agency may elect to proceed with an alternative proposal from another entity or owner.

ii) The Agency may enter into an Exclusive Negotiation Agreement (ENA) with another entity agreeing to negotiate a Disposition and Development Agreement (DDA) for Redevelopment Agency consideration.

e) Any resulting DDA may include terms and conditions that provide that:

i) the Agency use reasonable efforts to acquire any necessary property pursuant to a DDA ("Subject Property") by negotiated purchase and the sale of the Subject Property for redevelopment purposes; and

ii) If the Agency is unsuccessful in acquiring the Subject Property by negotiation, the Agency:

(1) May hold a public hearing on a resolution of necessity and, after complying with all requirements of law applicable to such resolution of necessity, determination, to consider whether or not to acquire Subject Property for redevelopment purposes.

(2) Such determination by the Agency shall be made, if at all, in the sole and absolute discretion of the Agency.

(3) If the Agency determines not to acquire Subject Property, the DDA would terminate subject to the terms and conditions of the DDA.

f) All DDAs that provide for sale or lease of Agency property, acquired with tax increment revenues, are required to:
i) Be considered for approval by the Agency and City Council after a noticed public hearing with a notice period of at least 14 days prior to the date of the hearing.
ii) Make available a special report to the public at the time of notice of the public hearing to ensure full disclosure of the essential terms of the proposed Agency transaction.

4) If the Agency finds it necessary to initiate the acquisition process in order to facilitate the development of a redevelopment activity or Agency development agreement, the Agency will take steps to acquire property not listed for sale in accordance with the following:

a) Obtain a highest and best use appraisal prepared by a qualified professional appraiser.
b) Make a fair market value offer to the affected property owner(s).
c) Prepare and approve a relocation plan if there is a potential for residential displacement.
d) If the Agency and owner are successful at negotiating the purchase and sale of the property, the proposed project/activity moves forward.
e) If the Agency and owner are not able to negotiate the purchase and sale, the following occurs.
i) The Agency may decide not to proceed with the redevelopment activity, or
ii) The Agency may desire to implement the activity requiring the purchase of the property and schedule a noticed public hearing to consider initiating eminent domain.

(1) The Agency conducts a noticed public hearing and considers the adoption of a resolution of necessity.
(2) The Agency may adopt the resolution of necessity (requires a two-thirds vote of the City Council sitting as the Redevelopment Agency) and make the findings required by California Eminent Domain Law. After the adoption of such a resolution:
    (a) The Agency files a complaint in court, deposits the probable compensation and requests an Order of Immediate Possession (OIP)
    (b) OIP is granted by the Court, property possession is given to the Agency 90 days later and the redevelopment activity moves forward.
    (c) The property owner may legally challenge the right to take the property. All challenges to the right to take property are resolved before the court.
    (d) Mediation and/or negotiations between the Agency and the owner(s) on compensation may continue.
    (e) If not resolved, final compensation is determined through a court trial.
    (f) A Final Order of Condemnation is issued by the court.

The proposed policy recommendations are made to provide an honest, fair, open, transparent public process for the judicious implementation of the Redevelopment Agency's power of eminent domain in accordance with State law.

Respectfully submitted,

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