

RESOLUTION NO. 2022-____

A RESOLUTION OF NECESSITY BY THE CITY COUNCIL OF THE CITY OF FONTANA, DECLARING THAT THE ACQUISITION OF A FEE INTEREST IN CERTAIN REAL PROPERTY LOCATED IN THE CITY OF FONTANA, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 0232-201-12 AND 0232-201-13, BY EMINENT DOMAIN, ARE NECESSARY FOR THE INSTALLATION OF INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF FONTANA, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Fontana (the “City”) proposes to acquire a fee interest in certain real property located in the City of Fontana, more particularly described as Assessor Parcel Numbers 0232-201-12 and 0232-201-13, in order to install infrastructure improvements in the City of Fontana, San Bernardino County, California, pursuant to the authority granted to it by section 37350.5 of the California Government Code and sections 1240.010, 1240.020 1240.030 of the California Code of Civil Procedure; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, January 25, 2022, at 7:00 p.m., at Fontana City Hall, Grover W. Taylor Council Chambers, 8353 Sierra Avenue, Fontana, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing was held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

Section 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing and with the California Environmental Quality Act.

Section 2. Public Use. The public use for which the real property are required to be acquired by the City of Fontana for the installation of infrastructure improvements and for construction of a permanent facility for the project, allowing for the enhanced and increased delivery of various services in the City of Fontana, San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

Section 3. Description of Property. Attached and marked as **Exhibit A** is the legal description and assessor map of the interest to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

Section 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in **Exhibit A** is necessary for the proposed project; and
- (d) The offers required by section 7267.2 of the California Government Code were made.

Section 5. Use Not Unreasonably Interfering with Existing Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to section 1240.510 of the California Code of Civil Procedure.

Section 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

Section 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on

behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for what the real property is being acquired.

Section 8. Effective Date. This Resolution shall take effect upon adoption.

APPROVED AND ADOPTED this 25th day of January, 2022.

Aquanetta Warren, Mayor

ATTEST:

City Clerk of the City of Fontana, California

CERTIFICATION

I, Tonia Lewis, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 25th day of January, 2022, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

City Clerk of the City of Fontana