

RESOLUTION \_\_\_\_\_

RESOLUTION OF NECESSITY OF THE CITY OF CHULA VISTA TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN FOR THE E STREET EXTENSION AND THE BIKE/PEDESTRIAN TRAIL FOR THE COMPLETION OF THE CHULA VISTA BAYFRONT PROJECT

WHEREAS, the Chula Vista Bay Front Project (Project) represents the last significant large-scale waterfront development in Southern California encompassing approximately 535 acres and costing approximately 1.1 billion dollars; and

WHEREAS, the first phase of this Project is the relocation of an existing Recreational Vehicle (RV) park, the construction of the extension of E Street to serve the new location, and a new recreational trail leading north from E Street to the northeast corner of the new RV park; and

WHEREAS, further construction on the Bay Front cannot take place until this phase is completed; and

WHEREAS, easements for street and public utility purposes, recreational trail, and temporary construction must be acquired from the landowner, SDG&E; and

WHEREAS, working with the Port of San Diego, the required easements have been appraised; and

WHEREAS, pursuant to Government Code Section 7267.2 a written Offer to Acquire was made to the owner of record and that the Offer to Acquire was based upon an approved appraisal; and

WHEREAS, SDG&E has informed City staff that it is unable, due to regulatory constraints, to settle this acquisition prior to the City adopting a Resolution of Necessity to condemn the necessary interest; and

WHEREAS, in order to complete the construction of the Project in a timely and responsible manner it is necessary to acquire these easements at this time; and

WHEREAS, on October 7, 2019, a notice of public hearing was mailed by certified and first-class mail and was hand delivered to the owner of record notifying them of their right to appear and be heard on the matter of the City's interest in adopting a resolution of necessity, and

WHEREAS, in accordance with California Code of Civil Procedure Section 1245.235, the City properly noticed, for October 22, 2019, a public hearing to consider the resolution, and gave to each person whose property is to be acquired a reasonable opportunity to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure, at which time the public hearing was properly conducted and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, at such public hearing the City considered all of the evidence submitted including public testimony and all relevant staff reports, and all evidence relating to the need for the Project and for the property, all of which are incorporated herein by reference; and

WHEREAS, the City possess the right to acquire said property by the use of eminent domain pursuant to the California Constitution and the California Eminent Domain Law, California Government Code Sections 37350 and 37350.5, Code of Civil Procedure Sections 1230.010 et. Seq., and in accordance with California Code of Civil Procedure Section 1240.030 which provides that the power of eminent domain may be exercised to acquire property upon following all proper procedures and making the required findings.

NOW THEREFORE, the City Council of the City of Chula Vista does hereby find, resolve and determine, by a vote of not less than two-thirds of its members, as follows:

**SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act.** This project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the project was adequately covered in previously certified Final Environmental Impact Report UPD#83356-EIR-658/SCH#2005081077 for the Chula Vista Bayfront Master Plan.

**SECTION 2. Public Use.** The public use for which the real property is to be acquired is for the construction and operation of public rights-of-way in the City of Chula Vista, San Diego County, California, and all uses necessary, incidental, or convenient thereto. The Project INSERT.

**SECTION 3. Description of Property.** Attached and marked as Exhibits "A" and "B" hereto are the legal descriptions and depictions of the following property interests required for the Project:

**EASEMENT INTEREST ACROSS PORTIONS OF SAN DIEGO COUNTY ASSESSOR'S PARCEL NUMBERS 565-010-08, 565-010-12, 565-010-15 AND 567-011-01, SAID EASEMENT INTEREST AS SET FORTH IN SAID EXHIBITS "A" AND "B".**

**SECTION 4. Findings.** Based upon the evidence presented at the hearing, the City of Chula Vista 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 property interests described in Exhibits "A" and "B", and as further described and limited in this resolution of necessity, are necessary for the proposed Project;
- (d) The offer required by section 7267.2 of the California Government Code was made to the owner or owners of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence; and
- (e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City of Chula Vista.

**SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s).** Some or all of the real property to be acquired may be subject to easements and rights-of-way appropriated to existing public uses. In the event the 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 of Chula Vista 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 may be devoted to other public uses or 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 of Chula Vista finds and determines that the herein described use or uses are more necessary than said existing public use.

**SECTION 7. Further Activities.** Counsel for the City of Chula Vista 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 of Chula Vista 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 deposits as may be required by order of court, to permit the City to take possession of and use said real property at the appropriate time to ensure timely construction of the public Project. 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 which the real property is being acquired.

**SECTION 8. Appropriation of Necessary Proceeds.** The appraised value of the parcels being considered for acquisition by eminent domain is \$107,300. The funds for the acquisition of the Parcel A which is needed for the E street extension will be funded by the City's General Fund to be reimbursed through the Revenue Sharing Agreement with the Port of San Diego. No appropriations are needed as funding is included in the fiscal year 2019-20 General Fund budget for the Bayfront project. Funding for Parcel B needed for the trail easement and the temporary construction easements will be funded by the Port of San Diego.

**SECTION 9. Independent Judgement.** The City Council hereby finds and determines that their approval of eminent domain proceedings, adoption of this resolution and related findings made in connection therewith, were the product of their exercise of their independent review and judgement.

Presented by

Approved as to form by

---

Eric Crockett  
Director of Economic Development

---

Glen R. Googins  
City Attorney

