

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 FIRE STATION 9
REPLACEMENT PROJECT -- LOCATED AT 1095 ALPINE AVENUE

WHEREAS, the current Fire Station Nine (266 East Oneida Street) was built in 1961 and is past its useful life; and

WHEREAS, this Fire Station has been occupied intermittently due to sewer back up, flooding and asbestos/ mold presence and the facility lacks separate sleeping quarters, appropriate access to multiple restrooms; and

WHEREAS, this Fire Station does not meet the code requirements of an Essential Services Building and must be replaced; and

WHEREAS, the Fire Department determined that the current site at one-half acre and only 77 feet wide was not adequately sized or configured to accommodate a modern Fire Station; and

WHEREAS, the Fire Department using specialized software, determined this site, located at 1095 Alpine Avenue (Assessor's Parcel No. 619-100-23) is superior to the current site, which cannot be used, as it: a) achieves better geographic distribution relative to other Fire Department resources, and b) improves the Department's ability to cover the concentration of fire and emergency medical calls for services; and

WHEREAS, no other available and suitable site could be located within the needed service area; 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, the City has not been able to reach agreement with the property owner for the acquisition of this property; and

WHEREAS, in order to replace the obsolete and failing Fire Station 9 in a timely and responsible manner it is necessary to acquire this site at this time; and

WHEREAS, on April 24, 2018 a notice of public hearing was mailed by certified and first class mail and was hand delivered to the owner of record notifying him of his 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 May 15, 2018, a public hearing to consider the resolution, and gave to each person whose property is to be acquired and whose name appears on the last equalized court 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, 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 is incorporated herein by reference; and

WHEREAS, providing the citizens of Chula Vista with sufficient and safe fire protection and related emergency services is of critical importance to the City of Chula Vista, as is providing safe, modern and code-compliant facilities for City's fire services staff; 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 previously analyzed for environmental impact purposes and a Notice of Exemption was filed pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303 Class 3, Section 15332 Class 32 and Section 15061 (b) (3).

SECTION 2. Public Use. The public use for which the real property is to be acquired is for the construction and operation of a Fire Station in the City of Chula Vista, San Diego County, California, and all uses necessary, incidental or convenient thereto in connection with the Fire

Station 9 Replacement Project (implementation of the Fire Stations Repairs/Replacements (Measure P) project). The Project will replace an obsolete and failing fire station with a new modern facility which will provide for a higher level of fire service and increase public safety

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: **FEE INTEREST IN ASSESSOR’S PARCEL NUMBER 619-100-23-00**

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 subject 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; and
- (d) The offer required by section 7267.2 of the California Government Code, together with the accompanying statement of and summary of the basis for the amount established as just compensation, 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, which offer and accompanying statement/summary were in a form and contained all of the factual disclosures provided by Government Code Section 7267.2.
- (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 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 pursuant to section 1240.610 of the California Code of Civil Procedure.

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 proceeds required to fund this Project are currently budgeted in City's Capital Improvement Projects (CIP) as Fire Stations Repairs/ Replacements (Measure P).

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.

PASSED, APPROVED AND ADOPTED this ____ day of May 2018.

Mayor

ATTEST:

CITY CLERK

Presented by

Approved as to form by

Eric Crockett
Director of Economic Development

Glen R. Googins
City Attorney