

## RESOLUTION NO. 2017-028

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA FINDING AND DETERMINING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF SANTA ANA AT 2016-2020 W. FIFTH STREET (APN 007-110-17) FOR THE ORANGE COUNTY STREETCAR PROJECT

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:**

Section 1. June 6, 2017, the City Council of the City of Santa Ana, after written notice duly provided to all those claiming ownership in the property described hereafter, as they appeared on the last equalized County assessment roll, held a hearing pursuant to Code of Civil Procedure section 1245.235 for the purpose of allowing the owners thereof a reasonable opportunity to be heard on the following matters:

- A. Whether the public interest or necessity requires the project;
- B. Whether the project is planned or located in a manner which is most compatible with the greatest public good and the least private injury;
- C. Whether the property proposed to be acquired is necessary for the project;
- D. Whether the offer required by Government Code section 7267.2 has been made;
- E. Whether the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein, as well as any other matter regarding the right to take said property by eminent domain; and
- F. Whether the City has statutory authority to acquire the property by eminent domain.

Section 2. The City Council has, as a result of its consideration and the evidence presented at the hearings on this matter, and in accordance with the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, determined that the proposed project has been adequately evaluated in the previously prepared Revised Environmental Assessment/Final Environmental Impact Report (State Clearinghouse No. 2010051060). Pursuant to the National Environmental Policy Act, an Environmental Assessment document with a Finding of No Significant Impact was prepared for the proposed project and approved by the Federal Transit Administration in 2015.

On the basis of this review, the City Council finds that there is no evidence from which it can be fairly argued that the Project will have a significant adverse effect on the environment.

Section 3. Pursuant to Title XIV, California Code of Regulations (“CCR”) § 753.5(c)(1), the City Council has determined that, after considering the record as a whole, there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the ecological habitat upon which wildlife resources depend. The proposed project exists in an urban environment characterized by paved concrete, roadways, surrounding buildings and human activity. Therefore, pursuant to Fish and Game Code § 711.4(c)(2)(A) and Title XIV, CCR § 753.5(a)(3), the payment of Fish and Game Department filing fees is not required in conjunction with this project.

Section 4. The City of Santa Ana 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 located at 2016-2020 W. Fifth Street (APN 007-110-17), as described in Exhibit A and graphically depicted in Exhibit B, is necessary for the proposed project.
- D. The offer required by section 7267.2 of the California Government Code was made.

Section 5. The City hereby finds, determines and declares that the public interest, convenience and necessity require the acquisition by the City of the properties described in Section 4 above, including any and all leaseholds and related improvements, for the purposes of the Orange County Transportation Authority (“OCTA”) and the City of Santa Ana joint project that proposes to construct a modern streetcar system connecting the Santa Ana Regional Transportation Center to Harbor Boulevard and Westminster Avenue in the City of Garden Grove, also known as the Orange County Streetcar Project (“Project”).

Section 6. The taking of the interest in the properties described in Section 4 above is necessary for the public right of way and is authorized by Section 19 of Article I of the California Constitution; Section 200 of the Santa Ana Charter; California Code of Civil Procedure sections 1240.010, 1240.110; California Government Code sections 37350.5 and 40404; and other applicable law.

Section 7. The City hereby declares that it is the intention of the City of Santa Ana to acquire in its name, in accordance with the provisions of the laws of the State of California with reference to condemnation procedures, all interests in and to the Properties described in Section 4 above.

Section 8. If any of the Property described in Section 4 above has been appropriated for some public use, the public use to which it is to be applied and taken under this proceeding is a more necessary and paramount public use.

Section 9. The property described in Section 4 above is located within the City of Santa Ana, County of Orange, State of California, and is more particularly described in Section 4 hereof.

Section 10. The City of Santa Ana is authorized to acquire by eminent domain as provided in the California Code of Civil Procedure.

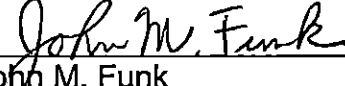
Section 11. The City Attorney is hereby authorized and directed to prepare, institute and prosecute in the name of the City such proceedings, in the proper court having jurisdiction thereof, as may be necessary for the acquisition of the interests in the property described in Section 4 above. The City Attorney is also authorized and directed to obtain a necessary order of immediate possession and occupancy of such property, at the discretion of the City Attorney.

Section 12. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this 6<sup>th</sup> day of June, 2017.

  
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Miguel A. Pulido  
Mayer

APPROVED AS TO FORM:  
Sonia A. Carvalho, City Attorney

By:   
\_\_\_\_\_  
John M. Funk  
Assistant City Attorney

AYES: Councilmembers Benavides, Pulido, Solorio, Tinajero, Villegas (5)

NOES: Councilmembers Martinez (1)

ABSTAIN: Councilmembers None (0)

NOT PRESENT: Councilmembers Sarmiento (1)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2017-028 to be the original resolution adopted by the City Council of the City of Santa Ana on June 6, 2017.

Date: 6/7/2017

Maria D. Huizar  
Maria D. Huizar  
Clerk of the Council  
City of Santa Ana

## EXHIBIT A

### LEGAL DESCRIPTION

All that certain real property situated in the County of Orange, State of California, described as follows:

**Parcel A:**

The North one-half of Lot 17 of Tract No. 270, in the City of Santa Ana, County of Orange, State of California, as shown on a map recorded in Book 13, Page 48 of Miscellaneous Maps, in the office of the County Recorder of said county.

**Parcel B:**

Lot 18 and the South one-half of Lot 17 of Tract No. 270, in the City of Santa Ana, County of Orange, State of California, as shown on a map recorded in Book 13, Page 48 of Miscellaneous Maps, in the office of the County Recorder of said county.

APN: 007-110-17

# EXHIBIT B

