

## **RESOLUTION NO. 2014-0007**

Adopted by the Sacramento City Council

January 7, 2014

### **DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF THE PROPERTY AT 600 K STREET, SACRAMENTO, CALIFORNIA, AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE ENTERTAINMENT AND SPORTS CENTER PROJECT**

#### **BACKGROUND**

- A. The City of Sacramento requires the acquisition of the property located at 600 K Street ("Subject Property"), which is owned by the California Public Employees Retirement System ("CalPERS").
- B. The City of Sacramento is pursuing a new City-owned Entertainment and Sports Center Project ("Project"). This state-of-the-art multipurpose Entertainment and Sports Center will host a wide range of events, including exhibitions, conventions, and sporting events, as well as musical, artistic and cultural events in downtown Sacramento. The Project will also generate thousands of jobs, including employees hired both during construction and for the operation of the Entertainment and Sports Center.
- C. The California Legislature recently enacted special legislation relating to this important public Project, including express authorization for the City to acquire certain property by eminent domain. In particular, Senate Bill No. 743, which was approved by the Governor of the State of California on September 27, 2013, and which became effective on January 1, 2014, is an act to amend Sections 65088.1 and 65088.4 of the Government Code, and to amend Sections 21181, 21183, 21186, 21187, 21189.1, and 21189.3 of, to add Section 21155.4 to, to add Chapter 2.7 (commencing with Section 21099) to Division 13 of, to add and repeal Section 21168.6.6 of, and to repeal and add Section 21185 of, the Public Resources Code, relating to environmental quality.
- D. For the aforementioned reasons, it is desirable and necessary for the City of Sacramento to acquire fee simple title in the property located at 600 K Street, Sacramento, California, as more particularly described in Exhibit "A" and

Exhibit "B," which exhibits are attached hereto and made a part hereof by this reference and hereinafter referred to the "Subject Property."

- E. The City of Sacramento is vested with the power of eminent domain to acquire all real property interests by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010 - 1240.050, 1240.110, 1240.120, and 1240.220; California Senate Bill No. 743; California Government Code section 37501; and/or California Government Code section 37350.5.
- F. Pursuant to Code of Civil Procedure section 1245.235, the City of Sacramento has provided the owner of the Subject Property, a copy of the "Notice of Intention to Adopt Resolution of Necessity" informing it of the date and time any interested person can be heard before the City Council, on the following matters, and to have the City Council give consideration to testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity to commence eminent domain proceedings:
- 1) Whether the public interest and necessity require the Project;
  - 2) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
  - 3) Whether the property sought to be acquired is necessary for said Project;
  - 4) Whether the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that the City's use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future;
  - 5) Whether the property is being acquired for a more necessary public use under the Code of Civil Procedure section 1240.610 in that the City's use of the property is a more necessary public use than the use to which the property is appropriated; and
  - 6) Whether the offer required by Government Code section 7267.2 has been made to the owner of record.
- G. Pursuant to the provisions of section 7267.2 of the Government Code of the State of California, the City of Sacramento has made an offer to the owner of record to acquire the Subject Property for just compensation and provided same with an appraisal summary statement.

- H. Newly enacted Senate Bill No. 743 provides a statutory process whereby the City of Sacramento may prosecute an eminent domain action through an order for possession prior to completing the environmental review on the Entertainment and Sports Center Project under the California Environmental Quality Act ("CEQA"). The City of Sacramento will comply with the requirements of CEQA pursuant to this newly enacted statutory process.
- I. The City Council considered this matter as an item placed on its agenda at its regular meeting of January 7, 2013.
- J. All the findings and conclusions made by the City Council pursuant to this Resolution are based upon substantial evidence in the entire record before the City Council, and are not based solely on the information provided in this Resolution.
- K. Prior to taking action, the City Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including each of the Project-related documents relevant to the adoption of this Resolution, including but not limited to, Senate Bill No. 743, the Report to Council, and all oral and written evidence presented to it during all meetings and hearings.
- L. The City Council has duly considered all pertinent information presented to it on the issue before it, and specifically whether: (1) the public interest and necessity require the Project; (2) the Project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury; and (3) the Subject Property is necessary for the Project.
- M. All other legal prerequisites to the adoption of the Resolution have occurred.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. The above recitals are true and correct and are matters on which these findings are based.

Section 2. The public interest and necessity require this Project.

- Section 3. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury as determined.
- Section 4. The taking in fee simple title of the real property more particularly described in Exhibit "A" and Exhibit "B" is necessary for the Project.
- Section 5. The offer required by Government Code section 7267.2 was made to the owner of record on September 5, 2013.
- Section 6. The proposed use of the Subject Project will not unreasonably interfere with or impair the continuance of the public use as it currently exists or may reasonably be expected to exist in the future, pursuant to California Code of Civil Procedure section 1240.510.
- Section 7. The use for which the Subject Property is sought to be taken is a more necessary public use than the use to which the property is currently appropriated, pursuant to California Code of Civil Procedure Section 1240.610.
- Section 8. While continuing to make every reasonable effort to acquire the Subject Property interests by negotiation, the City Attorney of the City of Sacramento or his duly authorized designee be, and is hereby, authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the Subject Property and to take such action as may be deemed advisable or necessary in connection therewith.
- Section 9. An order for prejudgment possession may be obtained in said action and a warrant issued to the State Treasury Condemnation Fund, in the amount determined by the Court to be so deposited, as a condition to the right of immediate possession.
- Section 10. The City Manager is authorized to take the necessary budget and accounting actions to properly account for this transaction.

Adopted by the City of Sacramento City Council on January 7, 2014, by the following vote:

Ayes: Members Ashby, Cohn, Hansen, Pannell, Schenirer, Warren, and Mayor Johnson

Noes: Members Fong and McCarty

Abstain: None

Absent: None

Attest:

Digitally signed by Shirley A. Concolino  
DN: cn=Shirley A. Concolino, o=City of Sacramento, ou=City Clerk, email=sconcolino@cityofsacramento.org, c=US  
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Shirley Concolino, City Clerk