



Consideration of Action on Resolutions of Necessity for the Perris Emergency Relief Facility Project (ERF Project) – (Action Item)

Introduction

On May 4, 2023, the Department of Water Resources (Department) submitted a notice to the Commission of the Department's intent to request a Resolution of Necessity (RON) for the Perris Emergency Relief Facility Project (ERF Project). Pursuant to the Commission's Procedures for Resolutions of Necessity and Eminent Domain (Procedures), Revised May 17, 2023, the Department is providing this Staff Report to the Commission that includes the information and documentation necessary to ensure that all applicable requirements for a RON have been met.

The Department will present evidence in accordance with Procedures, at a public meeting for the Commission to consider in support of the specific findings required for a resolution of necessity pursuant to Code of Civil Procedure § 1245.230.

This agenda item is consistent with Goal Three of the Commission's Strategic Plan, to carry out its "statutory authorities associated with the Department of Water Resources to ensure that the Department's decisions on key programs and activities are based on sound information and advance climate resiliency." Goal Three specifically includes the Commission's eminent domain obligations within its objectives.

The Commission is being asked to consider adopting the proposed resolution of necessity at this meeting.

Elements of the Resolution of Necessity

The elements of the Resolution of Necessity are set forth in Code of Civil Procedure § 1245.230:

- (a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the public entity to acquire the property by eminent domain.
- (b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.
- (c) A declaration that the governing body of the public entity has found and determined each of the following:
 - (1) The public interest and necessity require the proposed project.
 - (2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

- (3) The property described in the resolution is necessary for the proposed project.
- (4) That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

The amount of compensation that is required to be paid to the owner(s) to acquire the property interest is not at issue in a RON proceeding. The amount of compensation will be either be reached by agreement through settlement negotiations or may be determined in a court trial following adoption of the Resolution of Necessity. (Cal. Const., art I, § 19.)

Project Description

The ERF Project is being advanced by the Department and will safely route the flow of water in an emergency drawdown that requires the rapid lowering of Lake Perris. The Project will provide protection from a 100-year flood and a major earthquake failure to more than 6,000 residents of the City of Perris. Flows would be directed by levees into a channel that would ultimately flow into the existing Perris Valley Storm Drain.

The location of the ERF Project is near the dam site at Lake Perris (the southern terminus for the State Water Project) and extends approximately one mile to an existing drainage channel. The Department is planning to acquire property from the California Department of Food and Agriculture, 46th Agricultural District Association (Fairgrounds) to construct the ERF Project. A portion of the Fairgrounds property to be acquired by the Department is currently used for parking during Fairground events. To offset the loss of parking that will be taken by the Department's acquisition of Fairground's property, the Department needs to acquire and transfer accessor parcel number 302-200-005 (subject property), to the Fairgrounds. The subject property is vacant land adjacent to the Fairground that has historically been used for Fairground parking during Fairground events.

Public Engagement

The Department conducted public and stakeholder outreach activities to engage and inform all interested parties of Project activities. The Department has met with the County of Riverside, City of Perris, nearby landowners, and other stakeholders to engage the public while planning for the ERF Project.

The Final Environmental Impact Report (EIR) for the ERF Project was certified and approved by the Department in May 2018. After certification of the EIR, modifications to the ERF Project were identified and analyzed in Addendum No. 2 which was finalized in December 2022. In Addendum No. 2, it discusses the need to acquire the subject property from the owner(s) and transfer the subject property to the Fairgrounds to offset its loss of parking. These activities sought to create an open and transparent process through which the public, stakeholders, and other interested parties can track and participate in the planning of the ERF Project. This coordination enabled the ERF Project to be planned and located in the manner that will be

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most compatible with the greatest public good and the least private injury. (CCP § 1245.230(c)(2).)

Public Use and Eminent Domain Authorization

The Department is seeking to acquire the subject property in fee simple estate, for the purpose of transferring the subject property to the Fairgrounds to offset the Fairgrounds' loss of public parking during its events. The Department has authority under Water Code §§ 250, 253, 258, 11575 and 11580 to acquire property rights required and necessary for the operation of the State Water Project.

California Code of Civil Procedure §§ 1245.210 and 1245.220 requires the Department to obtain a Resolution of Necessity from the Commission, as the appropriate governing body.

Status of Acquisitions

This information is provided at a point in time prior to the Commission Meeting and is subject to change. Discussions to acquire the subject property have been ongoing for over a year. The Department and the subject property owner are continuing to discuss the acquisition.

Property Description

The ERF Project is seeking to acquire and then transfer the subject property to the Fairgrounds to offset the Fairgrounds' loss of public parking during its events. The subject property is identified below and in the Attachments:

APN(s): 302-200-005, Riverside County
Department Parcel Number: 3-6008
Owner of Record: DiMatteo Properties L.P.
Approximate Acres: 5± Acres

The subject property is a vacant parcel and has been used in past years as overflow parking for the Fairgrounds.

The subject property was identified by Fairgrounds as suitable overflow parking to offset the parking being taken by the Department at the Fairgrounds for the ERF Project. Pursuant to Government Code § 7267.2, a written offer of just compensation was sent to the landowner of record on April 15, 2023, a copy of which is attached to this staff report. The offer amount was based on a fair market value appraisal of the property, as reviewed by the Department of General Services. An Appraisal Summary Statement was provided to indicate clearly the basis for the offer, including, but not limited to, all of the following information: (1) The date of valuation, highest and best use, and applicable zoning of property; and (2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting

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the determination of value. Also included with the offer was a complete legal description of the property to be acquired, a right of way contract for the purchase of the subject property, and an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

Status of Negotiations

Negotiations are still ongoing. the Department's Office of General Counsel is working directly with the subject property owner's attorney. At the time of this report, an agreement has not been reached as to compensation.

Notice of this Commission Meeting

Pursuant to the Commission's Procedures, written notice of this meeting was mailed via first class to the property owner(s) listed with Yolo County's Recorder on July 21, 2023. A copy of that letter is attached.

Department Contact For This Property

Kyle Muteff
Attorney
715 P Steet
Sacramento, CA 95814
Kyle.muteff@water.ca.gov

Attachments

- First Written Offer Package
- Real Estate Agent Diary (Communications)
- Property Map – Location of Subject Property
- Notice of Determination (May 2018)
- NOD for Addendum No. 2 (December 2022)
- Addendum No. 2 to the EIR (December 2022)
- Notice to Landowner of Hearing to Consider Adopting a Resolution of Necessity
- Resolution of Necessity (Draft)