

City of Hesperia

STAFF REPORT



DATE: August 19, 2025

TO: Mayor and City Council Members

FROM: Rachel Molina, City Manager

BY: Nathan R. Freeman, Director of Development Services

SUBJECT: Consider Adoption of Resolution of Necessity to Acquire a Portion of APN 3057-051-06 at the Southeast Corner of Escondido Avenue and Sultana Street

RECOMMENDED ACTION

It is recommended that the City Council hold a hearing on the proposed Resolution of Necessity and adopt the Resolution of Necessity authorizing the commencement of an eminent domain action to acquire the portion of property located at the Southeast Corner of Escondido Avenue and Sultana Street (APN 3057-051-06).

BACKGROUND

A 21,718 square foot portion of APN 3057-051-06 needs to be acquired for the installation of a traffic signal and related improvements (the "Project") on the southeast corner of Escondido Avenue and Sultana Street. The subject portion has been appraised by a professional real estate appraiser retained by the City. The full fair market value of the subject portion is \$39,092.

In April 2025, the City of Hesperia made a written offer, in compliance with Government Code Section 7267.2, to purchase the subject portion. However, the property owners did not respond.

On July 31, 2025, in accordance with California Government Code Section 1245.235, the City gave notice to the property owners that the City Council would consider a Resolution of Necessity authorizing the acquisition of the subject portion by eminent domain. The notice informed the property owners of their right to appear at this hearing and be heard on the following issues:

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 acquisition of the subject portion is necessary for the Project;
4. Whether the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer was not made because the owner cannot be located with reasonable diligence; and
5. Whether the offer required by Section 7267.2 of the Government Code was made in the form and substance required by law.

While a hearing on a Resolution of Necessity is often referred to as a public hearing, the only notice required is a 15-day notice by regular mail to the property owners. No published notice is required.

The affirmative vote of two-thirds of all the members of the City Council, which in this case is four (4) affirmative votes, is required to adopt the Resolution of Necessity.

FINDINGS REQUIRED IN THE RESOLUTION OF NECESSITY

Public acquisition of private property by eminent domain for the installation of a traffic signal and related improvements is authorized by Section 19 of Article I of the California Constitution, California Code of Civil Procedure Sections 1240.010 through 1240.050 and Sections 1240.410 through 1240.430, and Government Code Sections 37350, 37350.5, and 40404.

Pursuant to California Government Code Section 1240.030, the power of eminent domain may be exercised to acquire property for a proposed project only if all of the following are established:

- a) The public interest and necessity require the Project.
- b) The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c) The property sought to be acquired is necessary for the project.

In addition, a Resolution of Necessity must include a finding that the offer required by Government Code Section 7267.2 has been made to the owner or owners of record, or the offer was not made because the owner could not be located with reasonable diligence.

In this case, public interest, convenience, and necessity require the Project, for the improvement of the southeast corner of Escondido Avenue and Sultana Street. With the increase in population, as well as vehicular and pedestrian traffic within the local vicinity, additional infrastructure improvements to the City's streets and highways are necessary to improve public health and safety and ensure orderly and responsible growth. This Project will facilitate such improvements to public health and safety and responsible growth by promoting the orderly and safe flow of vehicular traffic and cross traffic at an important intersection. Accordingly, the Project is necessary to meet the needs of a growing City and improve the public health and safety of those traveling along Escondido Avenue and Sultana Street and the local vicinity.

The Project is planned in the manner which will be the most compatible with the greatest public good and the least private injury. The subject portion is located at the southeast corner and intersection of Escondido Avenue and Sultana Street. This intersection already exists and is highly traveled. Vehicular traffic along the north-south intersection of Escondido Avenue is fairly substantial and vehicles travel at a relatively high speed, making it difficult for cross traffic along Sultana Street to pass or merge onto Escondido Avenue. It is estimated that 22,000 vehicles utilize that intersection on a daily basis. Without the traffic signal improvements, traffic along Sultana would continue to worsen and jeopardize the public health and safety of those traveling through that intersection. Because the intersection already exists (and is part of the City's Circulation Element), relocating any portion of either Escondido Avenue or Sultana Street is not feasible. Additionally, all the surrounding property within the vicinity is privately owned, so additional street realignments would not provide the greatest good with least private injury. Other potential locations for the Project are technically infeasible or have greater adverse impacts.

Acquisition of the subject portion is necessary for the Project, as the location of the subject portion makes it the only location on which to install traffic signals and related improvements. As already stated, other potential locations for the Project are technically infeasible or have greater adverse impacts. In other words, without the subject portion, the Project cannot be constructed.

Lastly, in April 2025, the City made an offer to the property owners pursuant to Government Code Section 7267.2. However, not all property owners were able to accept the offer due to one party being out of the country and unavailable.

After the City receives testimony and evidence from all interested parties, the City Council must make a determination as to whether to acquire the subject portion by eminent domain and adopt the proposed Resolution of Necessity (see Attachment 2) or not. The City Council must make the above findings based upon all the evidence and the existence of the above stated conditions.

If approved, the City Attorney will be directed to take all necessary steps to initiate legal proceedings in a court of competent jurisdiction to acquire the property through eminent domain. The City Attorney will also seek an order for prejudgment possession in accordance with the provisions of eminent domain law, allowing the City to move forward with the Project while legal proceedings are pending.

CITY GOAL SUPPORTED BY THIS ITEM

Future Development- Facilitate balanced growth to ensure cohesive community development and pursue economic development.

FISCAL IMPACT

The cost of acquisition of the subject portion will be funded from the account 204-29-700-7174-8400.

ATTACHMENT(S)

1. Resolution of Necessity for APN 3057-051-06