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RESOLUTION NO. R-22-16

RESOLUTION OF NECESSITY FOR THE ACQUISITION OF A ROAD RIGHT-OF-WAY EASEMENT AND UTILITY EASEMENT IN A PORTION OF CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0161-222-21, LOCATED IN COLTON, CALIFORNIA, FOR THE CITY OF COLTON'S INSTALLATION OF PUBLIC ACCESS IMPROVEMENTS, IN SAN BERNARDINO COUNTY, CALIFORNIA

WHEREAS, the City of Colton (the "City") proposes to acquire a Road Right-of-Way Easement and Utility Easement in a portion of certain real property, located in San Bernardino County, California, more particularly described as Assessor Parcel No. 0161-221-21, for the City of Colton's installation of public access improvements in San Bernardino County, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, March 15, 2016 at 6:00 p.m., at the City of Colton's City Council Chambers at City Hall, 650 N. La Cadena Drive, Colton, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county 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; and

WHEREAS, said hearing has been held by the City, and the affected property owners were afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure;

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

Section 1. Compliance with California Code of Civil Procedure. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 2. Public Use. The public use for the Road Right-of-Way easement and Utility easement in the property to be acquired is for the City of Colton's installation of public access improvements in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

Section 3. Description of Property. Attached and marked as Exhibits "A" are the legal definitions, legal description and plat map, respectively, of the interest to be acquired by the City, which describe the general location and extent of the property with sufficient detail for reasonable identification.

1 **Section 4. Findings.** The City hereby finds and determines each of the following:

- 2 (a) The public interest and necessity require the proposed project;
- 3 (b) The proposed project is planned or located in the manner that will be most
- 4 compatible with the greatest public good and least private injury;
- 5 (c) The property defined, described and depicted in Exhibit "A" is necessary for
- 6 the proposed project; and
- 7 (d) The offer required by Section 7267.2 of the California Government Code was
- 8 made.

9 **Section 5. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of

10 the real property affected by the interest to be acquired is subject to easements and rights-of-way

11 appropriated to existing public uses. The legal descriptions of these easements and rights-of-way

12 are on file with the City and describe the general location and extent of the easements and rights-

13 of-way with sufficient detail for reasonable identification. In the event the herein described

14 use or uses will not unreasonably interfere with or impair the continuance of the public use as it

15 now exists or may reasonably be expected to exist in the future, counsel for the City is authorized

16 to acquire the herein described interest subject to such existing public use(s) pursuant to Section

17 1240.510 of the California Code of Civil Procedure.

18 **Section 6. More Necessary Public Use.** Some or all of the real property affected by the

19 interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses.

20 To the extent that the herein described use or uses will unreasonably interfere with or impair the

21 continuance of the public use as it now exists or may reasonably be expected to exist in the future, the

22 City finds and determines that the herein described use or uses are more necessary than said

23 existing public use. Counsel for the City is authorized to acquire the herein described

24 real property appropriated to such existing public uses pursuant to Section 1240.610 of the

25 California Code of Civil Procedure. Staff is further authorized to make such

26 improvements to the affected real property that it determines are reasonably necessary to mitigate

27 any adverse impact upon the existing public use.

28 **Section 7. Further Activities.** Counsel for the City is hereby authorized to acquire

29 the hereinabove described real property in the name of and on behalf of the City by eminent domain,

30 and counsel is authorized to institute and prosecute such legal proceedings as may be required in

31 connection therewith. Legal counsel is further authorized to take such steps as may be authorized

32 and required by law, and to make such security deposits as may be required by order of court, to

33 permit the City to take possession of and use said real property at the earliest possible time.

34 Counsel is further authorized to correct any errors or to make or agree to non-material changes in

35 the legal description of the real property that are deemed necessary for the conduct of the

36 condemnation action, or other proceedings or transactions required to acquire the subject

37 real property. Counsel is further authorized to reduce or modify the extent of the interests or

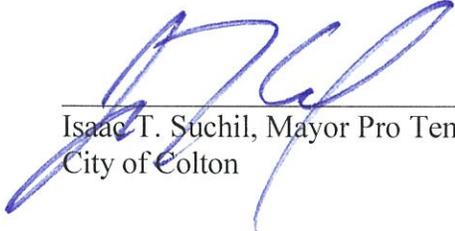
38 property to be acquired so as to reduce the compensation payable in the action where such change

39 would not substantially alter or modify the construction and operation of the project for which the

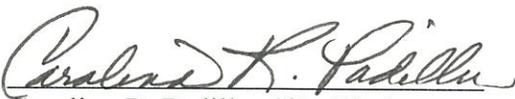
1 real property is being acquired.

2 **Section 8. Effective Date.** This Resolution shall take effect upon adoption.

3 **PASSED, APPROVED AND ADOPTED** this 15th day of March, 2016.

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8 Isaac T. Suchil, Mayor Pro Tempore
City of Colton

8 ATTEST:

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11 Carolina R. Padilla, City Clerk
12 City of Colton
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1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF COLTON)

4 CERTIFICATION

5 I, **CAROLINA R. PADILLA**, City Clerk of the City of Colton, California, do hereby
6 certify that the foregoing is a full, true and correct copy of **RESOLUTION NO. R-22-16**,
7 duly adopted by the City Council of said City, and approved by the Mayor of said City, at its
8 Regular Meeting of said City Council held on the **15th day of March, 2016**, and that it was
9 adopted by the following vote, to wit:

10 AYES: COUNCILMEMBER Toro, Jorin, Navarro, González, Suchil
11 Bennett
12 NOES: COUNCILMEMBER None
13 ABSTAIN: COUNCILMEMBER None
14 ABSENT: COUNCILMEMBER Mayor DeLaRosa
15

16 **IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal
17 of the City of Colton, California, this _____ day of _____, 20__.

18
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21 _____
22 CAROLINA R. PADILLA
23 City Clerk
24 City of Colton

25 (SEAL)
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