

**OJAI VALLEY SANITARY DISTRICT**

**BOARD OF DIRECTORS  
RESOLUTION NO. 2020-13**

**RESOLUTION OF NECESSITY TO EXERCISE THE POWER OF  
EMINENT DOMAIN TO ACQUIRE REAL PROPERTY FOR  
SECURING LONG-TERM INGRESS AND EGRESS TO AND FROM  
THE OJAI VALLEY SANITARY DISTRICT WASTEWATER  
TREATMENT PLANT**

WHEREAS, the Ojai Valley Sanitary District (“District”) is a special district formed pursuant to the Sanitary District Act of 1923 (Health & Safety Code §6400 *et seq.*) and is governed by the District’s Board of Directors; and

WHEREAS, the District is authorized to serve the people and commercial entities in its jurisdiction by collecting and treating residential, commercial and industrial sewage through pipelines, pumps, wastewater treatment works and other facilities in an efficient and cost-effective manner to protect public health, safety and welfare and to protect the environment in accordance with governing federal and state laws and regulations; and

WHEREAS, to this end, the District owns and operates a wastewater treatment plant and facilities located at 6363 North Ventura Avenue in Ventura County, CA east of the Ventura River, west of Highway 33 and 5.5 miles north of Highway 101; and

WHEREAS, the District is empowered by Health & Safety Code §6514 to acquire by condemnation such real and personal property and rights of way within its jurisdictional limits, which in the judgment of the Board of Directors is necessary and proper to the exercise of its powers, especially for the ingress to and egress from the District’s wastewater treatment plant and facilities; and

WHEREAS, the District proposes to purchase real property by condemnation which is adjacent to its Wastewater Treatment Plant to secure permanent, unfettered access to its wastewater treatment facility to ensure public health and safety through the maintenance of its water treatment operations and protection of the environmental health of local water resources; and

WHEREAS, the District has determined that a 14,405-square foot piece of real property necessary for the access road to its Wastewater Treatment Plant is located on portions of two non-contiguous sections of real property located just south/southwest of Ventura Avenue, north of Canada Larga Road, adjacent to the City of San Buenaventura’s Water Purification Plant, in the unincorporated area of Ventura County, identified as Assessor’s Identification Nos. 063-0-030- 060 and 063-0-030-135 (“Property”); and

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WHEREAS, the District has determined that the Shull Bonsall Family Trust and the Bonsall Smith Legacy Trust are the owners of record of the Property; and

WHEREAS, the District has been continuously using the Property as a paved access road to its Wastewater Treatment Plant for over thirty-five (35) years since 1982 and that the District has maintained the Property for that purpose with the knowledge and permission of the owners of record; and

WHEREAS, the District currently possesses an easement on or underneath the Property as follows: a sewer easement granting the District a right to install pipelines and other fixtures underground with a non-exclusive right to ingress and egress over, under, upon, and across the area of the easement; and

WHEREAS, on September 24, 2018 and again on February 24, 2020, the District Board authorized and directed the General Manager Jeff Palmer and District Legal Counsel to seek acquisition of the Property in fee simple by negotiation with the owners of record; and

WHEREAS, Byron Lee Smith, Trustee of the Bonsall Smith Legacy Trust, and Evangeline Bonsall Smith, Trustor of the Bonsall Smith Legacy Trust, authorized Shull "Buz" Bonsall, Jr. ("Bonsall") to represent the Bonsall Smith Legacy Trust in the Property purchase and sale negotiations with the District; and

WHEREAS, pursuant to Government Code §7267.2, on March 2, 2020 the District sent letters of intent to purchase the subject property to the owners of record, Shull "Buz" Bonsall, Jr., Trustee of the Shull Bonsall Family Trust and Byron Lee Smith, Trustee of the Bonsall Smith Legacy Trust, offering the owners of record \$43,400.00 for the Property in fee simple; and

WHEREAS, pursuant to Government Code §7267.2(a), the District provided just compensation for the Property by offering the purchase price of \$43,400.00 to the owners of record, as determined by a detailed cost analysis and appraisal by Integra Realty Resources prepared on January 27, 2020; and

WHEREAS, pursuant to Government Code §7267.2(b) and Code of Civil Procedure §1263 *et seq.*, the District included the calculations and narrative explanation supporting the appraisal by Integra Realty Resources, which stated that \$43,400.00 is the fair market value of the property based on the highest and best use, as determined by the comparable purchase prices of nearby properties, an analysis of the existing encumbrances on the property, and the overall economics of the area; and

WHEREAS, pursuant to Government Code §7267.2(a)(2), the District's written offer also included an informational pamphlet detailing the process of eminent domain and the property owner's rights under California's Eminent Domain Law; and

WHEREAS, the District Board agreed to Bonsall's May 8, 2020, counteroffer of a \$60,000 purchase price for the Property at their May 18, 2020 Board meeting; and

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WHEREAS, District legal counsel sent a letter to the owners of record on May 27, 2020 which outlined the general terms and conditions of a proposed Purchase and Sale Agreement and a proposed License Agreement to enable Bonsall's use of the District's access road; and

WHEREAS, on July 1, 2020, following several telephone conversations by and between Bonsall and District legal counsel, a proposed Purchase and Sale Agreement and proposed License Agreement was sent to Bonsall for review and consideration; and

WHEREAS, in an August 24, 2020 email to District legal counsel, Bonsall rejected the District's offer to purchase the Property for \$60,000 as well as the proposed License Agreement for use of the District access road; and

WHEREAS, the District and the owners of record have failed to reach a purchase and sale agreement for the Property, rendering the offer, which was required by Government Code §7267.2, unsuccessful; and

WHEREAS, on September 23, 2020, the District provided notice of the District's intent to adopt a Resolution of Necessity, by first class mail and by email, in accordance with the provisions set forth in Code of Civil Procedure §1245.235, to the owners of record through their respective trustees (or Shull "Buz" Bonsall, Jr, Trustee of the Shull Bonsall Family Trust, and Byron Lee Smith, Trustee of the Bonsall Smith Legacy Trust).

NOW, THEREFORE, the Board of Directors of the Ojai Valley Sanitary District hereby finds, determines, and resolves as follows:

Section 1. The project or eminent domain action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resources Code §21000 et seq., under the existing facilities exemption set forth in title 14, California Code of Regulations ("CEQA Guidelines") §15301 for activities related to existing facilities, CEQA Guidelines § 15304 for activities involving minor public alterations to land, and CEQA Guidelines § 15304 for the construction or replacement of minor structures accessor to existing facilities, and under the Common Sense Exemption provided in CEQA Guidelines § 15061(b)(3). None of the exceptions to the use of a categorical exemption as set forth in CEQA Guidelines §15300.2(c) apply here. It can be determined with certainty that there is no possibility that the project will have a significant effect on the environment.

Section 2. The public interest and necessity require the project.

Section 3. The project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Section 4. The property in Section 6 below is necessary for the project.

Section 5. Offers, as required by Government Code §7267.2, have been made to the owner of records but they have been unsuccessful.

Section 6. The property to be acquired (a total of 14,405 sf) is located in the unincorporated area of the County of Ventura as follows: 12,676 square feet in the southeastern portion of APN 063-0-030-135, bordering both the eastern and southern

perimeters of the APN and the Ventura River Trail to the west and 1,729 square feet in the northern end of APN 063-0-030-60, with frontage along Ventura Avenue and the Ventura River Trail as depicted on Exhibit A.

Section 7. The property described in Section 6 above is to be taken for public uses; namely, for public health and safety, maintenance of local sewage and water mains, to promote the environmental health of local water resources, and all uses necessary, incidental, or convenient thereto, in connection with the repair, operation and maintenance of the District Wastewater Treatment Plant.

Section 8. The Ojai Valley Sanitary District is authorized to acquire the property described above pursuant to the following legal authorities: (a) Article 1, Section 19 of the California Constitution; (b) Code of Civil Procedure §§1230.010 through 1273.050; and (c) Health & Safety Code Section 6514.

Section 9. A notice of intention to adopt this resolution was given by first class mail and email to each person whose property is to be acquired by eminent domain in accordance with Section 1245.235 of the Code of Civil Procedure and a public hearing was duly conducted by the District Board of Directors on the matters contained herein. These notices have been attached as Exhibit B and incorporated herein by reference.

Section 10. District Legal Counsel is hereby authorized to institute eminent domain proceedings in the Superior Court of the State of California for the County of Ventura to acquire the real property described in Section 6 above and is further authorized to institute proceedings to take immediate possession of such real property in accordance with the provisions of all applicable laws.

District Legal Counsel is further authorized to correct any errors or to make or agree to any nonmaterial changes to the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the properties and to take all other necessary actions to complete the acquisition of the properties.

District Legal Counsel is further authorized to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

The foregoing Resolution was duly adopted by the Board of Directors of the Ojai Valley Sanitary District by not less than a two-thirds vote of its members on the 26th day of October 2020.

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AYES: Quilici, Ulrich, Baggerly, Curtis, Burg

NAYES: Kaiser

ABSENT: None

ABSTAIN: Stone

  
John R. Burg, Chairman

**CERTIFICATION:**

I, William Ulrich, Secretary of the Board of Directors of the Ojai Valley Sanitary District, do certify that the above is a true and accurate copy of Resolution No. 2020-13, adopted by the Board of Directors on, October 26, 2020.

  
William Ulrich, Secretary  
Ojai Valley Sanitary District

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