

RESOLUTION NO. 2024-09

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, AUTHORIZING THE ACQUISITION OF REAL PROPERTY INTERESTS NECESSARY FOR THE RIO DE FLAG FLOOD CONTROL PROJECT, A PUBLIC USE; PROVIDING FOR DELEGATION OF AUTHORITY, CONDEMNATION AUTHORITY, REPEAL OF CONFLICTING RESOLUTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council adopted an Ordinance No. 1983 on October 6, 1998 authorizing the acquisition of real property for flood control and to provide the opportunity for future development along the Rio de Flag and the Clay Avenue Wash, situated within Section 16, the southwest quarter of Section 15, the north half of Section 21, the north half of Section 22, and the northwest quarter of Section 23, Township 21 North, Range 7 East, Gila and Salt River Meridian Coconino County Arizona; and

WHEREAS, the City Council has approved acquisition of necessary property interests for the Rio de Flag Flood Control Project design has changed over time, as reflected in Ordinance No. 2009-22 on August 4, 2009; Resolution No. 2020-05 on February 18, 2020, and Resolution No. 2020-24 on May 19, 2020; and

WHEREAS, the City of Flagstaff (“the City”) has authority to acquire real property pursuant to Article 1, Section 3 of the Charter of the City of Flagstaff; and

WHEREAS, the City has authority acquire real property necessary for a public use by right of eminent domain (condemnation), pursuant to A.R.S. §§ 9-240, 9-276, 12-1111, 12-1113, and pursuant to A.R.S. § 12-1142 for a public works project funded in part by a federal agency; and

WHEREAS, pursuant to A.R.S. § 12-1116 the City has made offers to pay just compensation based upon appraised value to the property owners for the property interests described herein, but has been unable to reach agreements for purchase despite good faith negotiation; and

WHEREAS, the U.S. Department of the Army and the City entered into a Project Cooperation Agreement for construction of the Rio de Flag Flood Control and Recreation Project dated August 13, 2004, and, per Articles III and IV, the City shall acquire real property necessary for the project; and

WHEREAS, the U.S. Army Corps of Engineers has approved federal funding for the Rio de Flag Flood Control and Recreation Project; and

WHEREAS, City has adopted storm water fees to generate revenues for flood control and storm water projects, has included the Rio de Flag Flood Control and Recreation Project in its Capital Improvement Program (“CIP”), so the City is able to pay its required share of funding for the project.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Council hereby finds that acquisition of the easements and other real property interests described and depicted in the attached Exhibits 1 and 2 are necessary for a public use, the Rio de Flag Flood Control Project (“the Property Interests”). The Property Interests may be acquired through purchase, exchange, gift, donation, dedication, or condemnation for a public use.

SECTION 2. Delegation of Authority

The City Manager, Community Development Director, Real Estate Manager, City Attorney, and/or their delegates or agents, are hereby authorized and directed to take all steps, and execute all documents necessary to acquire the Property Interests, and to carry out the purpose and intent of this resolution.

The Community Development Director is hereby authorized to execute purchase contracts for acquisition of Property Interests at a price reasonably consistent with appraised value.

SECTION 3. Condemnation Authority.

The City Attorney is hereby authorized to file condemnation proceedings to acquire the Property Interests, and to retain the services of private counsel to prosecute such actions in accordance with law.

SECTION 4. Repeal of Conflicting Resolutions.

Any resolutions and parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

SECTION 5. Effective Date.

This Resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of February, 2024.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

- Exhibit 1 Chart listing Property Interests to be acquired
- Exhibit 2 Legal descriptions of Property Interests