

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

532



FROM: County Counsel

SUBMITTAL DATE:
April 17, 2006

SUBJECT: ADOPTION OF RESOLUTION NO. 2006-138 (GIVING CONSENT TO THE FARM MUTUAL WATER COMPANY'S ACQUISITION OF REAL PROPERTY BY EMINENT DOMAIN)

RECOMMENDED MOTION:

1. Adopt Resolution No. 2006-138 (which will give the Board's consent to the Farm Mutual Water Company's acquisition of certain real property by eminent domain). The real property to be acquired is owned by the Farm Property Owner's Association.

BACKGROUND: In order to obtain a State Revolving Fund loan for the purpose of upgrading facilities at The Farm, the Farm Mutual Water Company needs to have unencumbered title to the subject real property. Pursuant to California Code of Civil Procedure Section 1245.330, a quasi-public entity (like the Farm Mutual Water Company) cannot condemn real property (in unincorporated Riverside County, California) until the Board of Supervisors has adopted a resolution consenting to the acquisition of such property by eminent domain. California Code of Civil Procedure Section 1245.390 states that the adoption of such a resolution does not make the County liable for any damages caused by the acquisition of the property or by the project for which it is acquired.

Departmental Concurrence

Joe S. Rank

for Joe S. Rank, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget: Budget Adjustment: For Fiscal Year:
	Current F.Y. Net County Cost:	\$	
	Annual Net County Cost:	\$	

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

Joe S. Rank

- Dept't Recomm.: Consent Policy
- Per Exec. Ofc.: Consent Policy

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3 RESOLUTION NO. 2006-138

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5 GIVING CONSENT TO THE FARM MUTUAL
6 WATER COMPANY'S ACQUISITION OF
7 REAL PROPERTY BY EMINENT DOMAIN

8 WHEREAS The Farm Mutual Water Company (the "Water Company") is a California corporation
9 that provides water and wastewater services to shareholders within a community known as "The Farm"
10 (and located in the Wildomar area of unincorporated Riverside County, California);

11 WHEREAS the Farm Property Owners Association (the "FPOA") is a Non-Profit Mutual Benefit
12 Corporation that owns the real property in The Farm on which the Water Company's facilities are located;

13 WHEREAS Code of Civil Procedure Section 1245.330 prohibits a quasi-public entity from
14 commencing an eminent domain proceeding to acquire any real property (in unincorporated Riverside
15 County, California) unless and until the Riverside County Board of Supervisors consents to the
16 acquisition of such property by eminent domain;

17 WHEREAS the real properties that are the subjects of this Resolution (collectively the "Subject
18 Properties") are located entirely within the boundaries of unincorporated Riverside County, California in
19 the area known as Wildomar; are sections of Lot 122 of Tract 18456-1 as shown by map on file in Book
20 131 of Maps at pages 40 through 46 thereof, Records of Riverside County, California; and are legally
21 described and pictorially depicted on the documents attached hereto as Exhibit "A" and incorporated
22 herein by this reference;

23 WHEREAS the proposed project that is the subject of this Resolution (the "Proposed Project") is
24 the use of the Subject Properties (by the Water Company) as collateral for a State Revolving Fund loan
25 (for which the Water Company has received conditional approval) to construct facilities in order to
26 substantially increase the fire flow capacity throughout The Farm (and the capacity to provide irrigation
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1 water to areas on The Farm); the use of the Subject Properties (by the Water Company) in such a manner
2 as to better safeguard (and increase the security of) the Water Company's facilities; the implementation of
3 intentions (from nearly 30 years ago when the Water Company was incorporated) to convey to the Water
4 Company the real property upon which the Water Company's facilities are located; and for other uses
5 incidental thereto and required thereby;

6
7 WHEREAS the interests in property that are the subjects of this Resolution (collectively the
8 "Subject Property Interests) are: (a) fee simple ownerships in the two (2) sections of real property that are
9 described in attached Exhibit "A" as having sizes of approximately 15.46 acres and 0.17 acres; and (b)
10 perpetual ingress and egress easements in the remaining two (2) sections of real property that are
11 described in attached Exhibit "A"; and

12
13 WHEREAS the statutes that authorize the Water Company to acquire the Subject Property Interests
14 by eminent domain are Article 1, Section 19 of the California Constitution; Section 2729 of the Public
15 Utilities Code; Section 1245.330 of the Code of Civil Procedure; and Sections 1245.310 through
16 1245.390 of the Code of Civil Procedure.

17 NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Riverside County, State
18 of California, not less than four-fifths of all members concurring, in regular session assembled on April
19 25, 2006, THAT THIS BOARD FINDS AND DETERMINES EACH OF THE FOLLOWING:

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21 1. Notice of the Board's intention to adopt this Resolution was duly given as required by Section
22 1245.350 of the Code of Civil Procedure, and on the date and at the time and place fixed for hearing, this
23 Board did hear and consider all of the evidence presented.

24
25 2. The Farm Mutual Water Company is a mutual water company (within the meaning of Public
26 Utilities Code Section 2725) and is a quasi-public entity (within the meaning of Code of Civil Procedure
27 Section 1245.320).

28 3. The public interest and necessity require the Proposed Project;

1 4. The Proposed Project is planned or located in the manner that will be most compatible with the
2 greatest good and least private injury;

3 5. The Subject Property Interests are necessary for the Proposed Project; and

4 6. The hardship (to the Farm Mutual Water Company) if the acquisition of the Subject Property
5 Interests by eminent domain is not permitted outweighs any hardship to the owner(s) of the Subject
6 Property Interests.

7
8 BE IT FURTHER RESOLVED that the Farm Mutual Water Company is hereby authorized and
9 empowered

10 1. To acquire the Subject Property Interests by condemnation in accordance with the Constitution
11 and laws relating to eminent domain.

12 2. To prepare and prosecute such proceedings in the proper court having jurisdiction thereof as are
13 necessary for such acquisition.

14 3. To deposit the probable amount of compensation and to apply for an order permitting the taking
15 of prejudgment possession of the Subject Property Interests for purposes of the Proposed Project.

16 4. To compromise and settle such proceedings if such settlement can be reached and, in that event,
17 to take all necessary actions to complete the acquisition, including stipulations as to judgment and other
18 matters, and the causing of all payments to be made.
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November 29, 2005

W.O. 1165-003

EXHIBIT "A"
FARM MUTUAL WATER COMPANY
SEWER TREATMENT PLANT, OFFICE,
SURGE TANK, WELL & ACCESS

PARCEL "A"

That portion of Lot 122 (Common Open Space) of Tract 18456-1 as shown by map on file in Book 131 of Maps at Pages 40 through 46 thereof, Records of Riverside County, California, described as follows:

Beginning at the Northwest corner of Lot 70 of said Tract 18456-1, also being an angle point in the Easterly line of said Lot 122 (Common Open Space);

Thence the following four (4) courses along said Easterly line;

N.81°14'17"E., a distance of 325.32 feet;

N.82°57'24"E., a distance of 189.01 feet;

N.87°01'12"E., a distance of 126.04 feet;

N.88°09'52"E., a distance of 199.51 feet;

Thence N.15°31'06"W., a distance of 653.82 feet to an angle point in the Northerly line of said Lot 122 (Common Open Space);

Thence S.89°58'25"W. along said Northerly line, a distance of 1000.00 feet;

Thence S.00°01'35"E., a distance of 344.01 feet;

Thence S.42°23'19"E., a distance of 310.01 feet;

Thence S.46°19'42"E., a distance of 32.18 feet;

Thence N.82°51'47"E., a distance of 29.75 feet;

Thence S.59°00'39"E., a distance of 15.52 feet;

Thence N.78°46'14"E., a distance of 19.17 feet;

Thence S.18°29'22"E., a distance of 95.94 feet;

Thence S.29°26'56"E., a distance of 32.66 feet to the point of beginning.

The above described parcel of land contains 15.46 acres, more or less.

TOGETHER WITH an easement for ingress and egress over that portion of said Lot 122 (Common Open Space), lying within a strip of land 28.00 feet in width, the centerline being described as follows:

Commencing at the Northeast corner of Lot 71 of said Tract 18456-1, also being an angle point in the Easterly line of said Lot 122 (Common Open Space);

Thence Northeasterly along said Easterly line on a non-tangent curve concave Southeasterly having a radius of 70.00 feet, through an angle of 14°03'34", an arc length of 17.18 feet (the initial radial line bears N.88°35'35"W.) to the Point of Beginning of said centerline description;

Thence N.48°35'42"W., a distance of 83.07 feet;

Thence N.43°11'58"W., a distance of 58.29 feet;

Thence N.28°52'50"W., a distance of 57.89 feet;

Thence N.22°09'23"W., a distance of 87.88 feet;

Thence N.60°34'13"W., a distance of 84.82 feet;

Thence N.24°25'17"E., a distance of 26.00 feet to a point in the Westerly line of the above described Parcel "A", said point being the termination of said centerline description.

The sidelines of said strip of land 28.00 feet in width shall be prolonged or shortened to terminate in the Westerly line of the above described Parcel "A", and the Easterly line of said Lot 122 (Common Open Space), also being the Westerly line of Mill Pond Drive as shown on said Tract 18456-1.

PARCEL "B"

That portion of Lot 122 (Common Open Space) of Tract 18456-1 as shown by map on file in Book 131 of Maps at Pages 40 through 46 thereof, Records of Riverside County, California, described as follows:

Commencing at the Northeast corner of Lot 71 of said Tract 18456-1, also being an angle point in the Easterly line of said Lot 122 (Common Open Space);

Thence S.87°39'23"W. along the Northerly line of said Lot 71, a distance of 110.15 feet to the Northwest corner thereof;

Thence S.02°20'37"E. along the Westerly line of Lots 71 through 76 of said Tract 18456-1, a distance of 331.25 feet;

Thence WEST, a distance of 95.00 feet to the Point of Beginning of the parcel of land to be described;

Thence continuing WEST, a distance of 100.00 feet;

Thence NORTH, a distance of 75.00 feet;

Thence EAST, a distance of 100.00 feet;

Thence SOUTH, a distance of 75.00 feet to the point of beginning.

The above described parcel of land contains 0.17 acres, more or less.

TOGETHER WITH an easement for ingress and egress over that portion of said Lot 122 (Common Open Space), lying within a strip of land 20.00 feet in width, the Southerly and Easterly lines being described as follows:

Beginning at the Northeast corner of Lot 71 of said Tract 18456-1, also being an angle point in the Easterly line of said Lot 122 (Common Open Space);

Thence S.87°39'23"W. along the Northerly line of said Lot 71, a distance of 110.15 feet to the Northwest corner thereof;

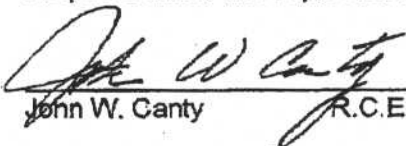
Thence S.02°20'37"E. along the Westerly line of Lots 71 through 76 of said Tract 18456-1, a distance of 331.25 feet;

Thence WEST, a distance of 95.00 feet to the termination of said line description.

The sidelines of said strip of land 20.00 feet in width shall be prolonged or shortened to terminate in the Easterly line of said Lot 122 (Common Open Space), also being the Westerly line of Mill Pond Drive as shown on said Tract 18456-1.

CANTY ENGINEERING GROUP, INC.

Prepared under the supervision of:


John W. Canty R.C.E. 17550

Nov. 30, 2005
Date



