

RESOLUTION NO. 2010-25

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
DECLARING THE NECESSITY AND AUTHORIZING THE COMMENCEMENT OF
EMINENT DOMAIN PROCEEDINGS TO SECURE REAL PROPERTY
INTEREST NECESSARY TO CONSTRUCT THE CIVIC CENTER
COMMUNITY PARK PROJECT**

[Barbara J. Foster, as Successor Trustee of the Foster Family Trust dated April 18, 1995, as to an undivided 9/27th interest; William M. Foster, Trustee, and to the Successor Trustees of the William M. Foster Revocable Living Trust, dated March 10, 1999, as to an undivided 6/27th interest; Keith E Foster as Trustee of the Foster Trust dated December 14, 2002, as to an undivided 6/27th interest; Keith Foster, as his sole and separate property, as to an undivided 3/27th interest and Lester Foster, as his sole and separate property, as to an undivided 3/27th interest, **APN 132-0270-022**]

WHEREAS, the improvement of the Civic Center Community Park Project ("Project") holds a high priority in the City of Elk Grove and acquiring the necessary real property interests is an important step in completing the Project; and

WHEREAS, as a part of the Project, it is necessary to acquire certain real property interests identified as APN 132-0270-022 (Property) for the construction, operation and maintenance of a community park; and

WHEREAS, the City of Elk Grove has investigated and examined alternatives to the project and the acquisition of the Property, and concluded that both the project and acquisition of the Property are necessary; and

WHEREAS, the Property, which is the subject of this Resolution of Necessity, consists of the parcel identified and depicted in Exhibit A (Fee Interest) which is attached hereto and incorporated herein; and

WHEREAS, the Property is located entirely within the municipal boundaries of the City of Elk Grove; and

WHEREAS, the City of Elk Grove has complied with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code section 21000, et seq., in regards to the acquisition of the Property based upon the City Council certifying a Revised Final Environmental Impact Report Approving the Laguna Ridge Specific Plan in June 2004; and

WHEREAS, the City of Elk Grove has complied with the requirements of Government Code section 7267.2, in regards to acquisition of the Property by making an offer to purchase to the known owners of record; and

WHEREAS, as a result of the hearing held on January 27, 2010, and in accordance with the provisions of the Code of Civil Procedure section 1245.235, the City Council of the City of Elk Grove intends to make certain findings and determinations.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove finds as follows:

- 1) The City of Elk Grove has complied with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code section 21000, et seq., in regards to the acquisition of the Property based upon the City Council certifying a Revised Final Environmental Impact Report Approving the Laguna Ridge Specific Plan in June 2004; and
- 2) Upon examination of the alternatives, the City of Elk Grove requires the Property for the Project; and
- 3) The City of Elk Grove is authorized to acquire the Property pursuant to the provisions of Government Code section 37350.5 and the Code of Civil Procedure (commencing at section 1230.010); and
- 4) Acquisition of the Property for Project purposes involves a 3.12 acre fee simple interest required for Civic Center Community Park. The Project promotes the beautification of Elk Grove and provides the public with a community park, is authorized by Government Code section 37350.5, and is therefore a public use; and
- 5) The City of Elk Grove hereby finds, determines and declares:
 - a. The public interest and necessity is served by the Project to accommodate the general public. The project is also consistent with the goals and objectives of the City's General Plan; and
 - b. The proposed project is planned or located with the greatest public good and the least private injury: The proposed improvements are required for the development of a community park while still meeting design standard and minimizes/eliminates impacts to private property; and
 - c. The property interests are necessary: Given the proposed park improvements, the City is seeking to acquire the necessary real property interests in order to accommodate the goals of the project. The City currently owns the balance of the property surrounding the planned community park. The subject property is not merely an "edge piece" but is situated within the larger park site. Said property interests are described in the attached legal description as Exhibit A (Fee

interest) and is necessary for the purposes of construction, operation and maintenance of the proposed park; and

- d. Prior to making the above findings and determinations, the offer required by section 7267.2 of the Government Code was made to the owner(s) of record of the property interests described and depicted in Exhibit A (Fee Interest). Copies of the offer letters have been filed with the City Clerk for reference.
- 6) The City Attorney is hereby authorized and directed to prepare, commence and prosecute proceedings in eminent domain in the appropriate court to acquire for the City of Elk Grove the property interests described and depicted in Exhibit A (Fee Interest). The City Attorney is further authorized to take all necessary steps to obtain such orders for immediate possession of the property interests as may be required for the project.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 27th day of January 2010.



SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Exhibit "A"
Legal Description

All that certain real property situated in the East One-Half of the Northwest One-Quarter of Section 2, Township 6 North, Range 5 East, Mount Diablo Meridian, City of Elk Grove, County of Sacramento, State of California, and being further described as follows:

Beginning at Point "A" as described in that certain Boundary Line Adjustment recorded on February 8, 2005, in Book 20050208, at Page 2529, Official Records of Sacramento County; thence from said **point of beginning**, along the West line of the above-mentioned Area 1, the following three (3) courses and distances:

1. North 89°46'50" East a distance of 348.48 feet;
2. South 00°13'10" East a distance of 389.56 feet; and
3. South 89°46'50" West a distance of 348.48 feet to the West line of said thirty-two foot (32.00') wide road right-of-way;

thence along said West line of the thirty-two foot (32.00') wide road right-of-way, North 00°13'10" West a distance of 389.56 feet to the **point of beginning**.

Together with an access easement over and across Area 1, as described herein:

A strip of land, thirty-two feet (32.00') in width, measured radially and/or at right angles, the West line of which is further described as follows:

Beginning at said Point "A"; thence from said **POINT OF BEGINNING**, along the West line of said thirty-two foot (32.00') wide road right-of-way, North 00°13'10" West a distance of 977.96 feet to the North line of the Northwest One-Quarter of said Section 2.

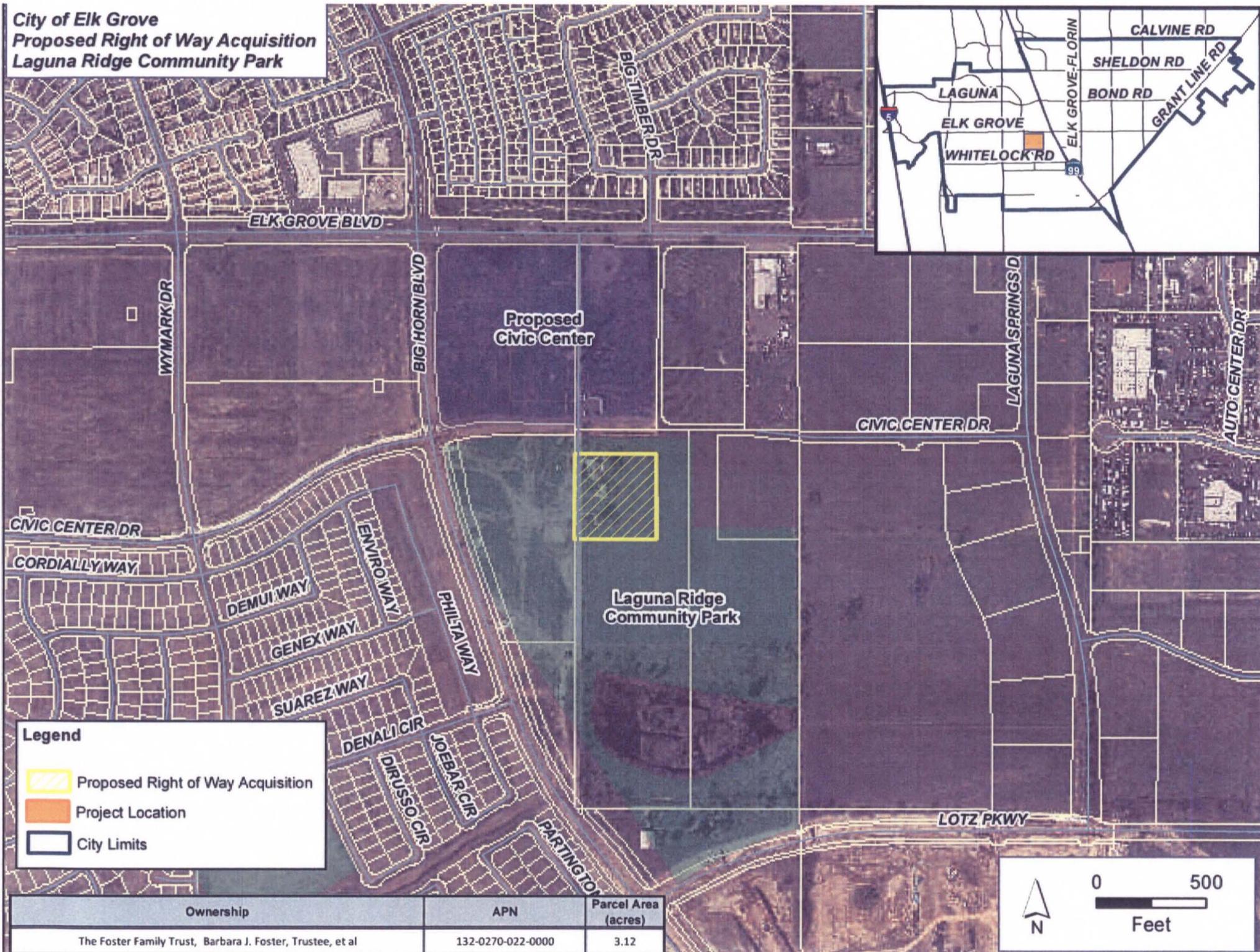
The sidelines of said strip shall be lengthened or shortened to terminate on the North line of the above-mentioned Area 2 and the North line of the Northwest One-Quarter of said Section 2.

Said property being described under "Area 2" in that Boundary Line Adjustment recorded February 8, 2005, in Book 20050208, Page 2529, Official Records.

The basis of bearings for this description is the California State Plane Coordinate System, Zone 2, NAD'83, Epoch Date 1997.30, as measured between NGS Station "Eshinger", 1st order, and NGS Station "Keller", 1st order. Said bearing is North 20°56'36" West. Distances shown are ground basis.

Apn: 132-0270-022

**City of Elk Grove
Proposed Right of Way Acquisition
Laguna Ridge Community Park**



Legend

-  Proposed Right of Way Acquisition
-  Project Location
-  City Limits

Ownership	APN	Parcel Area (acres)
The Foster Family Trust, Barbara J. Foster, Trustee, et al	132-0270-022-0000	3.12



**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2010-25**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 27, 2010 by the following vote:

AYES : **COUNCILMEMBERS:** *Scherman, Detrick, Cooper, Davis, Hume*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN : **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



**Susan J. Blackston, City Clerk
City of Elk Grove, California**