

RESOLUTION NUMBER 5438

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A FEE SIMPLE INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 330-100-024

WHEREAS, for the public purposes set forth herein, the City of Perris, California is authorized to acquire property through the exercise of eminent domain pursuant to Section 19 of Article 1 of the California Constitution, Section 1240.010 through 1240.050 of the California Code of Civil Procedure, and Sections 37350, 37350.5, 37353, and 40404 of the California Government Code; and

WHEREAS, the “Project” for the purposes of this acquisition consists of the Goetz Road Improvement Project, which generally consists of the widening of the Goetz Road between Case Road and the San Jacinto River, south of Mapes Road (referred to herein as the “Project”); and

WHEREAS, in order to carry out and make effective the principal purpose of the Project, it is necessary for the City of Perris to acquire the fee simple interest (“Interest”) in a portion of certain privately-owned real property located on the northeast corner of Goetz Road and Mapes Road, in the City of Perris, County of Riverside, California, Assessor’s Parcel No. 330-100-024; and

WHEREAS, the portions of the property in which the City seeks to acquire the fee simple interest is described in Exhibit “A” which is attached hereto and incorporated by this reference, and depicted on the diagram attached hereto as Exhibit “B” which is incorporated by this reference (hereinafter the “Property”); and

WHEREAS, on or about June 1, 2017, the City made a written offer to acquire the Interest to the record owners of the Property at an amount that was not less than the appraised fair market value in compliance with Government Code Section 7267.2(a), and the owners of the Property have not accepted said offer or otherwise conveyed the Interest to the City as of the date of this Resolution; and

WHEREAS, on January 14, 2019 a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of the Interest in certain real property identified as Assessor's Parcel No. 330-100-024 (a copy of which is attached hereto as Exhibit "C" and incorporated by this reference) was mailed to all persons whose names appear on the last equalized County Assessment Roll as having an ownership interest in the Property, and to the address appearing on said Roll, which Notice of Hearing advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein; and

WHEREAS, the hearing that was the subject of said Notice of Hearing was held on January 29, 2019, at the time and place stated therein and all interested parties were given an opportunity to be heard on the following matters:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury;
- (c) Whether the Interest proposed to be acquired is necessary for the Project;
- (d) Whether an offer meeting the requirements of Government Code Section 7267.2 has been made to the owner or owners of record;
- (e) Whether all other prerequisites for the exercise of eminent domain to acquire the Interest have been met; and

WHEREAS, the City Council, as a result of such hearing, has determined that the public health, safety, and welfare require the City to acquire the Interest in the Property for the stated purposes; and

WHEREAS, environmental impacts of this Project were addressed in the Environmental Impact Report for the City's General Plan, certified on April 26, 2005.

NOW THEREFORE, BE IT RESOLVED, that the City Council hereby does find, determine, and declare based upon evidence presented to it as follows:

Section 1. The staff report presented regarding this matter at the January 29, 2019 hearing is incorporated herein by this reference. The facts referenced in this Resolution and the staff report, and specifically the recitals above, are found to be true and are incorporated

herein by this reference. The findings made by the City Council herein are supported by substantial evidence contained in the record of this proceeding.

Section 2. The fee simple interest to be acquired consists of a portion of the Property located within the City of Perris, County of Riverside, State of California, Assessor's Parcel No. 330-100-024, as more specifically described above and in Exhibit "A" and depicted in Exhibit "B".

Section 3. The public interest, convenience, and necessity require the Project to accommodate growth and development as anticipated in the Land Use Element. Goetz Road starts at Case Road in the City of Perris and extends south into the City of Menifee. Currently, Goetz Road consists of two lanes from Case Road to the San Jacinto River, south of Mapes Road. The Project will expand Goetz Road to four lanes from Case Road to the San Jacinto River, south of Mapes Road. The Project will improve traffic safety and emergency vehicle response times.

Section 4. The Project is planned in the manner which will be the most compatible with the greatest public good and the least private injury. Goetz Road is identified and discussed in the Circulation Element of the City's General Plan Circulation Element. The Project only requires acquisition of what is necessary to complete the Project. Widening the existing roadway is the only practical means of achieving the necessary traffic capacity. Re-routing Goetz Road would be cost prohibitive and have a greater impact on private property owners because more private property would need to be acquired than is necessary for widening the existing roadway.

Section 5. The acquisition of the Interest in the Property is necessary for the Project because without the Interest, the Project cannot be constructed. The Interest is part of the ultimate width of Goetz Road. Acquisition of the Interest for public right-of-way is expressly authorized by Section 19 of Article 1 of the California Constitution, California Code of Civil Procedure Sections 1240.010 through 1240.050 and Government Code Sections 37350, 37350.5, 37353, and 40404.

Section 6. The offer required by Government Code Section 7267.2 has been made to the owner of record of the Property, by way of letter dated June 1, 2017, supplemented by letter dated July 17, 2017, and the owner of record of the Property has not accepted the City's offer or made an acceptable counter offer.

Section 7. The City hereby declares its intent to acquire the Interest in a portion of the Property described in Exhibit "A" in the City's name, in accordance with the provisions of the law of the State of California and finds that all conditions, statutory requirements and prerequisites to the exercise of eminent domain to acquire the Interest described herein and the Project have been complied with by the City.

Section 8. The law firm of Aleshire & Wynder, LLP, is hereby authorized and directed to prepare, institute, and prosecute in the name of the City such proceedings, in the Court having proper jurisdiction thereof, as may be necessary for the acquisition of the Interest in a portion of the Property in accordance with the provisions of the California Eminent Domain Law and the Constitution of California. Said counsel are also authorized and directed to obtain any necessary order of the Court granting the City the right of immediate possession and occupancy of the Property.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Perris this 29th day of January, 2019.

MICHAEL M. VARGAS
MAYOR OF THE CITY OF PERRIS

ATTEST:

NANCY SALAZAR
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, NANCY SALAZAR, City Clerk of the City of Perris, California, do hereby certify that Resolution Number 5438 was adopted by the City Council of the City of Perris at a regular meeting held on the 29th day of January, 2019, and that the same was adopted by the following vote:

AYES: CORONA, RABB, ROGERS, MAGAÑA, VARGAS

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

NANCY SALAZAR
CITY CLERK

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "B"
LEGAL DESCRIPTION PLAT

EXHIBIT “C”

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A FEE SIMPLE INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 330-100-024

WHEREAS, for the public purposes set forth herein, the City of Perris, California is authorized to acquire property through the exercise of eminent domain pursuant to Section 19 of Article 1 of the California Constitution, Section 1240.010 through 1240.050 of the California Code of Civil Procedure, and Sections 37350, 37350.5, 37353, and 40404 of the California Government Code; and

WHEREAS, the “Project” for the purposes of this acquisition consists of the Goetz Road Improvement Project, which generally consists of the widening of the Goetz Road between Case Road and the San Jacinto River, south of Mapes Road (referred to herein as the “Project”); and

WHEREAS, in order to carry out and make effective the principal purpose of the Project, it is necessary for the City of Perris to acquire the fee simple interest (“Interest”) in a portion of certain privately-owned real property located on the northeast corner of Goetz Road and Mapes Road, in the City of Perris, County of Riverside, California, Assessor’s Parcel No. 330-100-024; and

WHEREAS, the portions of the property in which the City seeks to acquire the fee simple interest is described in Exhibit “A” which is attached hereto and incorporated by this reference, and depicted on the diagram attached hereto as Exhibit “B” which is incorporated by this reference (hereinafter the “Property”); and

WHEREAS, on or about June 1, 2017, the City made a written offer to acquire the Interest to the record owners of the Property at an amount that was not less than the appraised fair market value in compliance with Government Code Section 7267.2(a), and the owners of the Property have not accepted said offer or otherwise conveyed the Interest to the City as of the date of this Resolution; and

WHEREAS, on January 14, 2019 a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of the Interest in certain real property identified as Assessor's Parcel No. 330-100-024 (a copy of which is attached hereto as Exhibit "C" and incorporated by this reference) was mailed to all persons whose names appear on the last equalized County Assessment Roll as having an ownership interest in the Property, and to the address appearing on said Roll, which Notice of Hearing advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein; and

WHEREAS, the hearing that was the subject of said Notice of Hearing was held on January 29, 2019, at the time and place stated therein and all interested parties were given an opportunity to be heard on the following matters:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury;
- (c) Whether the Interest proposed to be acquired is necessary for the Project;
- (d) Whether an offer meeting the requirements of Government Code Section 7267.2 has been made to the owner or owners of record;
- (e) Whether all other prerequisites for the exercise of eminent domain to acquire the Interest have been met; and

WHEREAS, the City Council, as a result of such hearing, has determined that the public health, safety, and welfare require the City to acquire the Interest in the Property for the stated purposes; and

WHEREAS, environmental impacts of this Project were addressed in the Environmental Impact Report for the City's General Plan, certified on April 26, 2005.

NOW THEREFORE, BE IT RESOLVED, that the City Council hereby does find, determine, and declare based upon evidence presented to it as follows:

Section 1. The staff report presented regarding this matter at the January 29, 2019 hearing is incorporated herein by this reference. The facts referenced in this Resolution and the staff report, and specifically the recitals above, are found to be true and are incorporated

herein by this reference. The findings made by the City Council herein are supported by substantial evidence contained in the record of this proceeding.

Section 2. The fee simple interest to be acquired consists of a portion of the Property located within the City of Perris, County of Riverside, State of California, Assessor's Parcel No. 330-100-024, as more specifically described above and in Exhibit "A" and depicted in Exhibit "B".

Section 3. The public interest, convenience, and necessity require the Project to accommodate growth and development as anticipated in the Land Use Element. Goetz Road starts at Case Road in the City of Perris and extends south into the City of Menifee. Currently, Goetz Road consists of two lanes from Case Road to the San Jacinto River, south of Mapes Road. The Project will expand Goetz Road to four lanes from Case Road to the San Jacinto River, south of Mapes Road. The Project will improve traffic safety and emergency vehicle response times.

Section 4. The Project is planned in the manner which will be the most compatible with the greatest public good and the least private injury. Goetz Road is identified and discussed in the Circulation Element of the City's General Plan Circulation Element. The Project only requires acquisition of what is necessary to complete the Project. Widening the existing roadway is the only practical means of achieving the necessary traffic capacity. Re-routing Goetz Road would be cost prohibitive and have a greater impact on private property owners because more private property would need to be acquired than is necessary for widening the existing roadway.

Section 5. The acquisition of the Interest in the Property is necessary for the Project because without the Interest, the Project cannot be constructed. The Interest is part of the ultimate width of Goetz Road. Acquisition of the Interest for public right-of-way is expressly authorized by Section 19 of Article 1 of the California Constitution, California Code of Civil Procedure Sections 1240.010 through 1240.050 and Government Code Sections 37350, 37350.5, 37353, and 40404.

Section 6. The offer required by Government Code Section 7267.2 has been made to the owner of record of the Property, by way of letter dated June 1, 2017, supplemented by letter dated July 17, 2017, and the owner of record of the Property has not accepted the City's offer or made an acceptable counter offer.

Section 7. The City hereby declares its intent to acquire the Interest in a portion of the Property described in Exhibit "A" in the City's name, in accordance with the provisions of the law of the State of California and finds that all conditions, statutory requirements and prerequisites to the exercise of eminent domain to acquire the Interest described herein and the Project have been complied with by the City.

Section 8. The law firm of Aleshire & Wynder, LLP, is hereby authorized and directed to prepare, institute, and prosecute in the name of the City such proceedings, in the Court having proper jurisdiction thereof, as may be necessary for the acquisition of the Interest in a portion of the Property in accordance with the provisions of the California Eminent Domain Law and the Constitution of California. Said counsel are also authorized and directed to obtain any necessary order of the Court granting the City the right of immediate possession and occupancy of the Property.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Perris this 29th day of January, 2019.

MICHAEL M. VARGAS
MAYOR OF THE CITY OF PERRIS

ATTEST:

NANCY SALAZAR
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PERRIS)

I, NANCY SALAZAR, City Clerk of the City of Perris, California, do hereby certify that Resolution No. _____ was adopted by the City Council of the City of Perris at a regular meeting held on the 29th day of January, 2019, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

NANCY SALAZAR
CITY CLERK

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A"
LEGAL DESCRIPTION
A.P.N. 330-100-024

PARCEL "A"

THOSE PORTIONS OF LOTS 7 AND 8 OF EHRMAN'S SUBDIVISION, AS SHOWN BY MAP ON FILE IN BOOK 11 OF MAPS, AT PAGE 544, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 7;

THENCE SOUTH 89° 48' 19" EAST, ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 34.93 FEET TO A POINT ON A LINE THAT IS PARLLEL WITH AND 64.00 FEET EASTERLY OF, AT A RIGHT ANGLE TO, THE CENTERLINE OF GOETZ ROAD, AS SHOWN ON THE PERRIMESA TRACT, BY MAP ON FILE IN BOOK 16 OF, RECORDS OF SURVEY, AT PAGE 14, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 00° 42' 45" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 662.57 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 8;

THENCE NORTH 89° 46' 15" WEST, ALONG THE SOUTH LINE OF SAID LOT 8, A DISTANCE OF 34.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8;


THENCE NORTH 00° 37' 57" EAST, A DISTANCE OF 662.54 FEET TO **THE POINT OF BEGINNING**;

SAID LAND IS LOCATED IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, CALIFORNIA AND CONTAINS 22,833 SQUARE FEET, MORE OR LESS.

THE ABOVE DESCRIBED PARCEL OF LAND IS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

THE BEARINGS AND DISTANCES SHOWN ON EXHIBITS "A" AND "B" ARE GRID AND BASED UPON THE CALIFORNIA COORDINATE SYSTEM ZONE 6, NAD 83, EPOCH 2011.00. GROUND DISTANCES MAY BE OBTAINED BY DIVIDING THE GRID DISTANCES SHOWN BY 0.99992229.

PREPARED UNDER THE SUPERVISION OF


GABRIEL D. YBARRA DATE 12-7-2016
LAND SURVEYOR NO. 4343
REGISTRATION EXPIRES 06-30-2018



2016-07BrianNChuchua

EXHIBIT "B"
LEGAL DESCRIPTION PLAT

EXHIBIT "B" PLAT

SHEET 1 OF 1 SHEET

SHOWING THE PROPOSED ACQUISITION OF RIGHT-OF-WAY OVER
PORTIONS OF LOTS 7 AND 8 OF EHRMAN'S SUBDIVISION, AS
SHOWN BY MAP ON FILE IN BOOK 11 OF MAPS, AT PAGE 544,
RECORDS OF SAN DIEGO COUNTY, CALIFORNIA.

**BRIAN N. CHUCHUA AND
KERSTIN E. CHUCHUA
A.P.N. 330-100-024**



LINE DATA

(N)	BEARING	DISTANCE
①	S 89°48'19" E	34.93'
②	N 89°46'15" W	34.00'

PREPARED UNDER THE SUPERVISION OF:

Gabriel D. Ybarra
11/01/16
GABRIEL D. YBARRA L.S. 4343 DATE

Record Owner:

Brian N. Chuchua
Kerstin E. Chuchua
290 S. Mohler Drive
Anaheim, CA 92808-1323

Exhibit prepared by:

Action Surveys
1045 Main Street, Suite 102
Riverside, CA 92501
(951) 686-6166

Exhibit prepared for:

Tri Lake Consultants, Inc.
24 S. "D" Street, Suite 100
Perris, CA 92570
(951) 943-6504

Scale: 1" = 100'

Assessor's Parcel Numbers:
330-100-024

Date Exhibit Prepared:
November 1, 2016

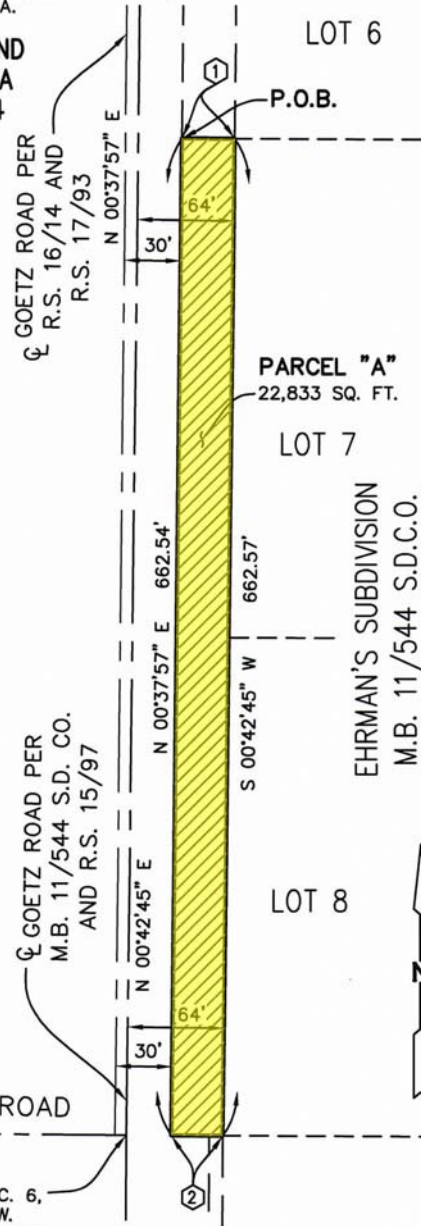
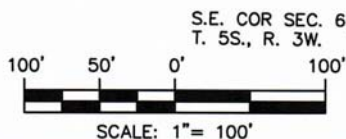


EXHIBIT “C”

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY



January 14, 2019

Brian N. Chuchua and Kerstin E. Chuchua, Trustees
Chuchua Family Trust dated October 25, 2007
290 S. Mohler Drive
Anaheim, CA 92808

Re: APN: 330-100-024
Property: Northeast Corner of Goetz Road and Mapes Road,
Perris, CA
Subject: Resolution of Necessity

Dear Property Owner:

On June 1, 2017, the City of Perris (the "City") made an offer to purchase portions of the property identified as Assessor's Parcel Number 330-100-024 in the City of Perris, California, located on the on the northeast corner of Goetz and Mapes Roads. The City reiterates its previous offer to purchase said Interests for \$ [REDACTED] subject to the conditions stated in the offer.

You are also hereby notified that the City intends to consider the adoption of a resolution of necessity authorizing acquisition of said Interests by eminent domain. The City's governing body will consider that resolution at a meeting to be held at the following time and place:

Date: January 29, 2019
Time: 6:30 p.m.
Location: City of Perris, City Hall, Council Chambers, 101 North D Street, Perris,
California

You have the right to appear at the meeting and be heard on the following issues:

1. Whether the public interest and necessity require the project;
2. Whether the project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
3. Whether the property sought to be acquired is necessary for the project;
4. Whether the offer required by Section 7267.2 of the *Government Code* has been made to the owners(s) of record; and

Brian N. Chuchua and Kerstin E. Chuchua, Trustees
January 14, 2019
Page 2

5. Whether the offer required by Section 7267.2 of the *Government Code* was made in the form and substance required by law.

NOTICE: If you fail to file a written request to be heard at the hearing within 15 days after the date of this letter, then the City may decide not to hear or consider any evidence which you may have to present. Please also be advised that, if you do not appear and present information to the City at the hearing, then you may be precluded from later challenging the City's authority to acquire portions of the property through its use of the power of eminent domain.

Neither the pendency of the City's consideration of the resolution of necessity, nor the initiation of formal eminent domain proceedings, in any way prevents further negotiations from occurring for the acquisition of said Interests, and the City will be most willing to continue such negotiations.

If you have any comments or questions, please do not hesitate to contact me at (949) 223-1170 or Richard Belmudez, City Manager at (951) 943-6100.

Thank you for your cooperation in this matter.

Very truly yours,

ALESHIRE & WYNDER, LLP



Nicolas D. Papajohn
Associate

NDP:krb

cc: Habib Motlagh, City Engineer (via email)
Eric Dunn, City Attorney (via email)
June Ailin, Special Counsel (via email)