

RESOLUTION NUMBER 5497

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF FEE SIMPLE INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 303-150-001

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 which the real property described herein to be acquired is the widening and improvement of Redlands Avenue, which generally consists of the widening of Redlands Avenue between Ramona Expressway and Morgan Street (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 street right-of-way in fee simple (“Interest”) in a portion of certain privately-owned real property located on the southeast corner of Dawes Street and Redlands Avenue, in the City of Perris, County of Riverside, California, Assessor’s Parcel No. 303-150-001; and

WHEREAS, the portion of the property in which the City seeks to acquire the fee simple interest for street right-of-way 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 March 29, 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 April 29, 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. 303-150-001 (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 addresses 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 May 14, 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 Rider Distribution Center, certified on March 31, 2009.

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 May 14, 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 street right-of-way to be acquired in fee simple consists of a portion of the Property located within the City of Perris, County of Riverside, State of California, Assessor's Parcel No. 303-150-001, comprising a total of 11,085 square feet, is 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. Redlands Avenue starts at Ellis Avenue and extends north past Ramona Expressway. Currently, Redlands Avenue consists of three lanes between Morgan Street and Ramona Expressway. The Project will rehabilitate existing pavement, re-stripe and widen Redlands Avenue five to ten feet along the east side of the roadway to provide for one continuous turn pocket. The existing signal at Redlands Avenue and Ramona Expressway will also be modified to match new improvements. 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. Redlands Avenue is designated as a Secondary Arterial in the Circulation Element of the City's General Plan. Widening the existing roadway is the only practical means of achieving the necessary traffic capacity. Re-routing Redlands Avenue 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 is necessary for the Project because without the Interest, the Project cannot be constructed. The Interest is part of the ultimate width of Redlands Avenue pursuant to the Circulation Element of the City's General Plan. Acquisition of the Interest 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 owners of record of the Property, by way of letter dated March 29, 2017, and the owner of record of the Property has not accepted the City's 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 this 14th day of May, 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 5497 was adopted by the City Council of the City of Perris at a regular meeting held on the 14th day of May, 2019, and that the same was adopted by the following vote:

AYES: MAGAÑA, CORONA, RABB, ROGERS, 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 FEE SIMPLE INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 303-150-001

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WHEREAS, on April 29, 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. 303-150-001 (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 addresses 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 May 14, 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 Rider Distribution Center, certified on March 31, 2009.

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

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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 14th day of May, 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 14th day of May, 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

BEING A PORTION OF THE FOLLOWING DESCRIBED LAND.

LOT 1, BLOCK 18 OF RIVERSIDE TRACT, IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP IN BOOK 14, PAGE 668 OF MAPS, RECORDS OF THE COUNTY OF SAN DIEGO.

SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1;

THENCE SOUTH 89°32'51" EAST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 41.94 FEET;

THENCE LEAVING SAID NORTH LINE, SOUTH 00°27'09" WEST 3.00 FEET;

THENCE SOUTH 46°41'09" WEST 34.62 FEET TO A POINT IN A LINE THAT IS PARALLEL WITH AND DISTANT 17.00 FEET EASTERLY OF THE WEST LINE OF SAID LOT 1;

THENCE SOUTH 00°34'33" WEST ALONG SAID PARALLEL LINE 603.15 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 1;

THENCE NORTH 89°25'27" WEST 17.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1;

THENCE NORTH 00°34'33" EAST ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 630.06 FEET TO THE NORTHWEST CORNER OF LOT 1 AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 11085 SQUARE FEET, MORE OR LESS.

APN 303-150-001 ASIAN INV. SERVICE



Prepared by HILLWIG-GOODROW, INC.:
31407 Outer Hwy. 10, Redlands, CA 92373 (888) 626-5137

N/A

FILE NO.: 516-023

DATE: JANUARY 6, 2015

ALAN C. HILLWIG, PLS 5137
LICENSE EXPIRES: 6-30-15

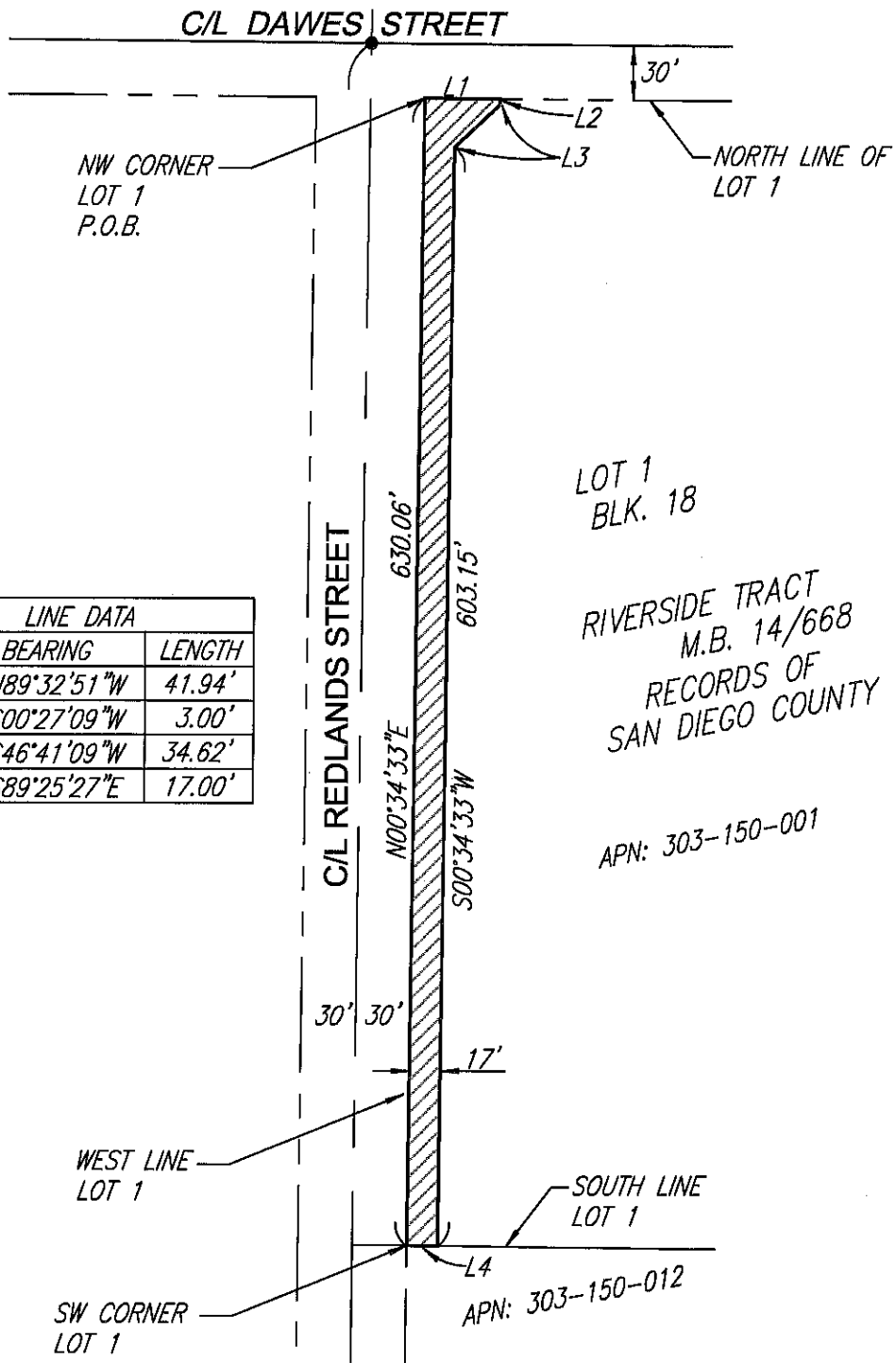
DATE

SHEET 1 OF 1

EXHIBIT "B"
LEGAL DESCRIPTION PLAT

EXHIBIT "B"

A PORTION OF LOT 1, BLOCK 18 OF RIVERSIDE TRACT
 MAP RECORDED IN BOOK 14, PAGE 668 OF MAPS,
 IN THE OFFICE OF THE COUNTY RECORDER,
 COUNTY OF SAN DIEGO, STATE OF CALIFORNIA



LINE DATA		
NO.	BEARING	LENGTH
L1	N89°32'51"W	41.94'
L2	S00°27'09"W	3.00'
L3	S46°41'09"W	34.62'
L4	S89°25'27"E	17.00'

LOT 1
 BLK. 18

RIVERSIDE TRACT
 M.B. 14/668
 RECORDS OF
 SAN DIEGO COUNTY

APN: 303-150-001

APN: 303-150-012



Prepared by HILLWIG-GOODROW, INC.:
 31407 Outer Hwy. 10, Redlands, CA 92373 (888) 626-5137

Alan C. Hillwig
 ALAN C. HILLWIG, PLS 5137
 LICENSE EXPIRES: 6-30-15

3/3/15
 DATE

SCALE: 1" = 100'

FILE NO.: 516-023

DATE: JANUARY 2015

SHEET 1 OF 1

PROGRESS SET: 2-20-15

EXHIBIT “C”

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY



April 29, 2019

Chi Fen Pan and Frederick Tochertman, Trustees of the Asian Investor
Service Inc. Retirement Plan Trust Dated January 1, 2001
Ming Cheng Hung
Sun Chang Lin and Chun Hsiang Lin Pan as Trustees of the Sun Lin & Chun
Pan Living Trust 2005 Dated October 17, 2005
2215 Cascade Way
Rowland Heights, CA 91748-5033

Re: APN: 303-150-001
Property: Southeast Corner of Dawes Street and Redlands Avenue,
Perris, CA
Subject: Resolution of Necessity

Dear Property Owner:

On March 29, 2017, the City of Perris (the "City") made an offer to purchase a portion of the property identified as Assessor's Parcel Number 303-150-001 in the City of Perris, California, located at the southeast corner of Dawes Street and Redlands Avenue. The City reiterates its previous offer to purchase said Interest 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: May 14, 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;

Chi Fen Pan and Frederick Tochertman,
Trustees of the Asian Investor Service Inc.
Retirement Plan Trust Dated January 1, 2001
April 29, 2019
Page 2

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
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:

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