

RESOLUTION NUMBER 5775

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF THE FEE SIMPLE INTEREST IN REAL PROPERTY KNOWN AS ASSESSOR'S PARCEL NOS. 326-062-017, 326-071-001, and 326-072-005

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, and 37361 of the California Government Code; and

WHEREAS, the “Project” for the purposes of this acquisition is the development, construction, and maintenance of Enchanted Hills Park, a community park (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 in certain privately-owned real property located on the south side of W. Metz Road, east of Carter Drive, and west of Altura Drive, in the City of Perris, County of Riverside, California, Assessor’s Parcel Nos. 326-062-017, 326-071-001, and 326-072-005 (hereinafter the “Property”); and

WHEREAS, the Property the City seeks to acquire 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; and

WHEREAS, on or about February 8, 2021 the City made a written offer to acquire the Property 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 Property to the City as of the date of this Resolution; and

WHEREAS, on March 11, 2021 a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of the fee simple interest in certain real property identified as Assessor’s Parcel Nos. 326-062-017, 326-071-001, and 326-072-005 (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 March 30, 2021, 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 Property 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 Property 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 Property for the stated purposes; and

WHEREAS, the City of Perris Development Services Department approved Mitigated Negative Declaration No. 2350 for the Project on March 3, 2020; and

WHEREAS, the Planning Division has determined the Project for which the Property is being acquired is exempt from the California Environmental Quality Act pursuant to the Notice of Determination filed with the Riverside County Clerk on March 3, 2020.

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 March 30, 2021 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 Property to be acquired is located within the City of Perris, County of Riverside, State of California, Assessor's Parcel Nos. 326-062-017, 326-071-001, and 326-072-005, described in Exhibit "A" and depicted in Exhibit "B".

Section 3. The public interest, convenience, and necessity require the Project to assist the City in creating parkland for residents' recreational use in accordance with the Land Use and Open Space Elements of the City's General Plan. The Property is located on the south side of W. Metz Road, east of Carter Drive, and west of Altura Drive. Currently, the Property is predominantly undeveloped. The Project is the development of park and recreation facilities, including a multi-use field, child play area, toddler play area, restrooms, picnic shelters, hardscape, parking lots, bridges, trails, a basketball court, bicycle motocross (BMX) course improvements, art rocks, splash pad, a skating area, and a zip line.

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. The Land Use Element of the City's General Plan identifies the region where the Project area is located as a region in need of parkland and sports fields for use by residents. The Project is the most practical means of meeting the parkland need in the region. Although surrounded by residential homes, the Project

area is predominantly undeveloped, yet already contains a number of trails and an unofficial BMX course. The Project would improve upon the present use of the land by converting it into an official community park for the benefit of the surrounding residents. Constructing the Project anywhere else would deprive the region's residents of the benefits and enjoyment of a community park and hinder the parkland goals of the City's Land Use Element for the region.

Section 5. The acquisition of the Property is necessary for the Project because, without the Property, the Project cannot be constructed. Acquisition of the Property 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, and 37361.

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 February 8, 2021, and the owners of record of the Property have not accepted the City's offer or made an acceptable counter offer.

Section 7. The City hereby declares its intent to acquire 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 Property 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 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.

ADOPTED, SIGNED and APPROVED this 30th day of March, 2021.

Michael M. Vargas, Mayor

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 5775 was adopted by the City Council of the City of Perris at a regular meeting held on the 30th day of March, 2021, 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"

PLAT

EXHIBIT "C"

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY