

RESOLUTION NUMBER 5994

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF DRAINAGE EASEMENT INTEREST ON A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 310-160-044

WHEREAS, for the public purposes set forth herein, the City of Perris, California is authorized to acquire an easement 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 40404 of the California Government Code; and

WHEREAS, the City of Perris is planning to install drainage improvements on its G Street Public Works Corporate Yard, adjacent to the Property owned by 4D Industrial, Inc. located on Seventh Street (referred to herein as the “Project”); and

WHEREAS, the planned drainage improvements require a 300-square foot drainage easement on a portion of the Property, Assessor’s Parcel Number 310-160-044; and

WHEREAS, the easement is for the acceptance of a concentration of storm runoff at a portion of the property as described in Attachment 1 which is attached hereto and incorporated by this reference, and depicted on the plat map attached hereto as Attachment 2 which is incorporated by this reference (hereinafter the “Property”); and

WHEREAS, the Project will alleviate nuisance drainage and flooding issues at the City’s Public Works Corporate Yard, as well as facilitate drainage of the Property for future development of improvements on the Property; and

WHEREAS, on or about March 18, 2022, the City made a written offer to acquire the easement interest to the record owner 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 owner of the Property has not accepted said offer or otherwise conveyed the easement to the City as of the date of this Resolution; and

WHEREAS, on **May 12, 2022**, a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of the Easement in a portion of real property identified as Assessor’s Parcel No. 310-160-044 (a copy of which is attached hereto as Attachment 3 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 May 31, 2022, 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 easement 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 easement 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 easement interest in the Property for the stated purposes; and

WHEREAS, the City has determined the acquisition of the drainage easement is exempt from the California Environmental Quality Act.

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 31, 2022 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 drainage easement to be acquired is located within the City of Perris, County of Riverside, State of California, Assessor's Parcel No. 310-160-044, comprising a total of 300 square feet, is described above and in Attachment 1 and depicted in Attachment 2.

Section 3. The public interest, convenience, and necessity require the acquisition of a drainage easement in a portion of the Property. The City's project to install drainage improvements at its corporate yard facilities and to direct flow of storm runoff that already drains at the Property will mitigate nuisance drainage and flooding issues at the City's Public Works Corporate Yard ("Project").

Section 4. The Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury. The Project will mitigate nuisance drainage and flooding issues at the City's Public Works Corporate Yard. It will also facilitate drainage of the Property for future development of improvements on the Property.

Section 5. The acquisition of the easement interest is necessary for the Project because without the easement interest, the Project cannot be constructed. Acquisition of the easement 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, 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 March 18, 2022, 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 easement interest in a portion of the Property described in Attachment 1 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 easement interest described herein 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 easement 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.

ADOPTED, SIGNED and ***APPROVED*** this 31st day of May 2022.

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 5994 was adopted by the City Council of the City of Perris at a regular meeting held on the 31st day of May, 2022 , and that the same was adopted by the following vote:

AYES: NAVA, CORONA, RABB, ROGERS, VARGAS

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

NANCY SALAZAR
CITY CLERK

ATTACHMENT 1

Legal Description

DRAINAGE EASEMENT

A.P.N. 310-160-044

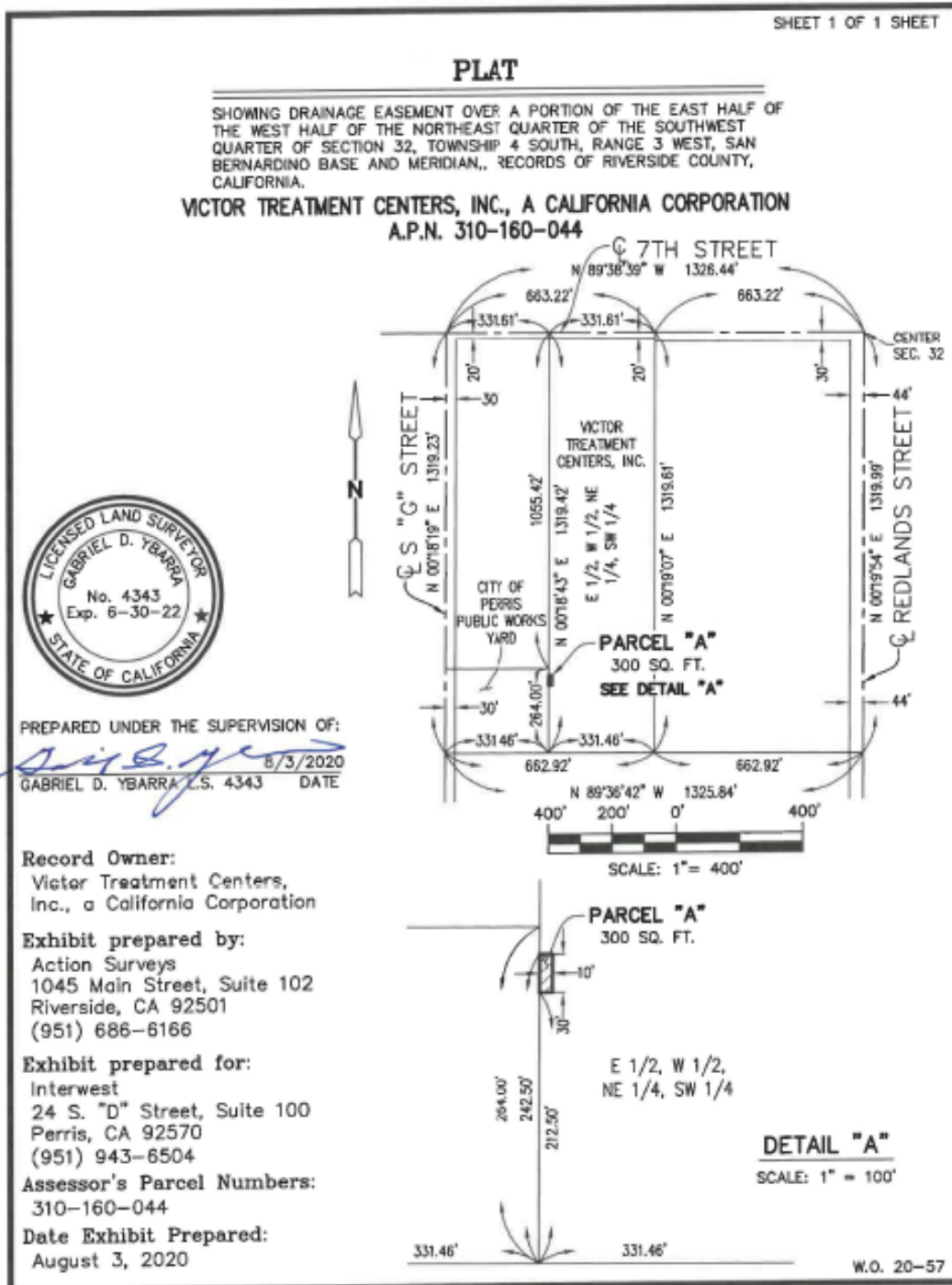
PARCEL "A"

THE NORTH 30.00 FEET OF THE SOUTH 242.50 FEET OF THE WEST 10.00 FEET OF THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN.

SAID LAND IS LOCATED IN THE CITY OF PERRIS, COUNTY OF RIVERSIDE, CALIFORNIA AND CONTAINS 300.00 SQUARE FEET, MORE OR LESS.

ATTACHMENT 2

Plat Map



ATTACHMENT 3

Notice of Intent to Adopt a Resolution of Necessity



CITY OF PERRIS

Office of the City Manager

101 NORTH "D" STREET
PERRIS, CALIFORNIA 92570
TEL: (951) 943-6100
FAX: (951) 943-4246

May 12, 2022

**NOTICE OF INTENT TO ADOPT A
RESOLUTION OF NECESSITY FOR ACQUISITION
OF EASEMENT ON REAL PROPERTY IDENTIFIED AS
ASSESSOR PARCEL NO. 310-160-044
IN THE CITY OF PERRIS**

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

4D Industrial, Inc.
1215 S. First Avenue,
Arcadia, CA 91006

Re: APN: 310-160-044
Property: 467 E. 7th Street, between S. Redlands Avenue and S. G
Street in the City of Perris, Riverside County, CA 92570
Subject: Notice of Intent to Adopt Resolution

Dear Property Owner:

On March 18, 2022, the City of Perris ("City") made an offer to purchase a drainage easement in a portion of the property located at 467 E. 7th Street, between S. Redlands Avenue and S. G Street, City of Perris, County of Riverside, California, Assessor Parcel Number 310-160-044. The City reiterates its previous offer to purchase the easement for \$2,500, 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 the property 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 31, 2022
Time: 6:30 p.m.
Location: City of Perris, City Hall, Council Chambers, 101 North D Street, Perris,
California 92570

May 12, 2022

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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
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 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 the property, 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 (951) 943-6100 or D. Dennis La at (310) 527-6660.

Thank you for your cooperation in this matter.

Very truly yours,



Clara Miramontes
City Manager

cc: Eric Dunn, City Attorney (via email)