

RESOLUTION NUMBER 6126

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF INTERESTS IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 320-010-012

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 is the widening and improvement of Orange Avenue, which generally consists of the widening of Orange Avenue between North Perris Boulevard and Medical Center Drive (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 and a temporary construction easement (hereinafter the “Interests”) in a portion of certain privately-owned real property located at the south side of Orange Avenue, east of North Perris Boulevard, in the City of Perris, County of Riverside, California, Assessor’s Parcel No. 320-010-012 (hereinafter the “Property”); and

WHEREAS, the portion of the Property in which the City seeks to acquire the fee simple interest is described in Exhibit “A-1” which is attached hereto and incorporated by this reference, and depicted on the diagram attached hereto as Exhibit “B-1” which is incorporated herein by this reference; and

WHEREAS, the portion of the Property in which the City seeks to acquire the temporary construction easement, which will be in effect for 12 months, commencing upon written notice to the owner of the Property from the City of Perris, is described in Exhibit “A-2” which is attached hereto and incorporated herein by this reference, and depicted on the diagram attached hereto as Exhibit “B-2” which is incorporated herein by this reference; and

WHEREAS, on or about October 31, 2022 and January 23, 2023 the City made a written offer to acquire the Interests 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 Interests to the City as of the date of this Resolution; and

WHEREAS, on January 30, 2023 a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of the Interests in certain real property identified as Assessor’s Parcel No. 320-010-012 (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 were held on February 14, 2023, 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 Interests proposed to be acquired are 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 Interests have been met; and

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

WHEREAS, environmental impacts of this Project were addressed in the Negative Declaration No. 2223 approved by the City of Perris Community Development Department on June 23, 2007.

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 February 14, 2023 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 is located within the City of Perris, County of Riverside, State of California, Assessor's Parcel No. 320-010-012, comprising a total of 1,123 square feet, is described in Exhibit "A-1" and depicted in Exhibit "B-1". The temporary construction easement to be acquired, which will be in effect for 12 months, commencing upon written notice to the owner of the Property from the City of Perris, comprising a total of 660 square feet, is described in Exhibit "A-2" and depicted in Exhibit "B-2".

Section 3. The public interest, convenience, and necessity require the Project to accommodate growth and development as anticipated in the Land Use Element. Currently, Orange Avenue consists of four lanes for a portion of the length between North Perris Boulevard and Medical Center Drive while the remaining portion consists of only three lanes – one lane on the south side and two lanes on the north side. The Project includes rehabilitating existing pavement, installing curb, gutter, and sidewalk, and re-striping and widening the remaining

portion of the south side of Orange Avenue from one to two lanes, making the width consistent with the rest of Orange Avenue between North Perris Boulevard and Medical Center Drive. The existing traffic signal at Orange Avenue and North Perris Boulevard is being replaced 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. Orange 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 Orange 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 Interests in the Property is necessary for the Project because without the Interests, the Project cannot be completed. Acquisition of the Interests 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 letters dated October 31, 2022 and January 23, 2023, 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 Interests in the portion of the Property described in Exhibits "A-1" and "A-2" 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 Interests 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 Interests 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 14th day of February 2023.

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 6126 was adopted by the City Council of the City of Perris at a regular meeting held on the 14th day of February, 2023, and that the same was adopted by the following vote:

AYES: CORONA, RABB, ROGERS, NAVA, VARGAS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Nancy Salazar, City Clerk

EXHIBIT "A-1"

LEGAL DESCRIPTION FOR FEE SIMPLE INTEREST

EXHIBIT "A-2"

LEGAL DESCRIPTION FOR TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "B-1"

PLAT MAP FOR FEE SIMPLE INTEREST

EXHIBIT "B-2"

PLAT MAP FOR TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT “C”

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY