

**RESOLUTION NUMBER 5099**

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF REAL PROPERTY INTERESTS IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 313-092-013***

**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 Perris Boulevard Road Project, which generally consists of the widening of the Perris Boulevard Arterial between Interstate 215 and 4<sup>th</sup> 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 the fee simple interest, a temporary construction easement in portions of certain privately-owned real property located at 171 East 1<sup>st</sup> Street, in the City of Perris, County of Riverside, California, Assessor’s Parcel No. 313-092-013, and the entire building located on Assessor’s Parcel No. 313-092-013 (“Real Property Interests”); and

**WHEREAS**, the portion 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**, the portion of the property in which the City seeks to acquire a temporary construction easement is described in Exhibit “C” which is attached hereto and incorporated by this reference, and depicted on the diagram attached hereto as Exhibit “D” which is incorporated by this reference; and

**WHEREAS**, on or about September 24, 2015 the City made a written offer to acquire portions of the Property together with certain improvements; and

**WHEREAS**, on or about August 31, 2016 the City made a written offer to acquire the whole of the Property; and

**WHEREAS**, since the August 31, 2016 offer the City has determined rather than acquire the whole Property, it is necessary to acquire a larger portion of the land area than was stated in the original offer; and

**WHEREAS**, on or about February 9, 2017 the City made a written offer to acquire the Real Property Interests 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 Real Property Interests to the City as of the date of this Resolution; and

**WHEREAS**, on March 13, 2017 a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of Real Property Interests in certain real property identified as Assessor's Parcel No. 313-092-013 (a copy of which is attached hereto as Exhibit "E" 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, 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 28, 2017, 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 Real Property 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 the offer required by Section 7267.2 of the Government Code was made in the form and substance required by law; 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 Real Property Interests in the Property for the stated purposes; and

**WHEREAS**, the Planning Division has determined the Project for which the Real Property Interests are being acquired is exempt from the California Environmental Quality Act pursuant to the Notice of Exemption filed with the Riverside County Clerk on November 3, 2016.

**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 28, 2017 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 is located within the City of Perris, County of Riverside, State of California, Assessor's Parcel No. 313-092-013, as more specifically described above and in Exhibit "A" and depicted in Exhibit "B". The temporary construction easement to be acquired, which will be in effect for a period of 12 months,

commencing upon written notice to the owner of the Property from the City of Perris, located west of the fee simple right of way acquisition, and a total of 2,200 square feet is described in Exhibit “C” and depicted in Exhibit “D”.

**Section 3.** The public interest, convenience, and necessity require the Project to accommodate growth and development as anticipated in the Land Use Element. Perris Boulevard starts from 11<sup>th</sup> Street in the City of Perris and extends to the northern portion of the City of Moreno Valley. Currently, Perris Boulevard consists of four lanes from Placentia Avenue to 300 feet north of Ramona Expressway and two lanes from 300 feet north of Ramona Expressway to the City Limits. The Project will expand Perris Boulevard to three lanes in each direction per the General Plan. 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. Perris Boulevard is part of the City’s General Plan and Circulation Element. Acquisition of the Real Property Interests would result in a partial taking of the building on the Property. While the building, in theory, could be repaired, the result would be an awkwardly configured structure. Acquisition of the entire Property is not necessary. However, acquiring the portion of the Property that would be required for completion of the ultimate right-of-way shown in the Circulation Element of the City’s General Plan will allow the owner of the Property the potential to rebuild on the remaining land without risk that another permanent taking would be required in the future if Perris Boulevard is expanded to its ultimate width. Thus, the City has determined acquiring the portion of the Property in which the building sits and demolishing the building, while leaving the remainder of the Property to the owner, will result in less private injury than either a more limited taking or a complete taking. Widening the existing roadway is the only practical means of achieving the necessary traffic capacity. Re-routing Perris Boulevard 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 Real Property Interests is necessary for the Project because without the Real Property Interests, the Project cannot be constructed. The Real Property Interests are part of the ultimate width of Perris Boulevard. Acquisition of the Real Property Interests 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 February 9, 2017, yet no agreement has been reached.

**Section 7.** The City hereby declares its intent to acquire the Real Property Interests 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 Real Property 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 Real Property Interests 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 28<sup>th</sup> day of March 2017.

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MICHAEL M. VARGAS  
MAYOR OF THE CITY OF PERRIS

ATTEST:

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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 5099 was adopted by the City Council of the City of Perris at a regular meeting held on the 28<sup>th</sup> day of March, 2017, and that the same was adopted by the following vote:

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

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NANCY SALAZAR  
CITY CLERK

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**EXHIBIT "B"**

**PLAT**

**EXHIBIT “C”**

**LEGAL DESCRIPTION FOR TEMPORARY CONSTRUCTION EASEMENT**

**EXHIBIT "D"**

**PLAT FOR TEMPORARY CONSTRUCTION EASEMENT**



**EXHIBIT “E”**

**NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY**