

RESOLUTION NUMBER 4499

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A FEE INTEREST AND TEMPORARY CONSTRUCTION EASEMENT IN PORTIONS OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 320-260-001

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 and Sections 1240.410 through 1240.430 of the California *Code of Civil Procedure*, and Sections 37350, 37353, 37350.5 and 40404 of the California *Government Code*; and

WHEREAS, the “Project” for the purposes of this acquisition consists of (i) the widening of westbound Nuevo Road before Perris Boulevard and construction of a right turn lane along the same, and (ii) the widening of southbound Perris Boulevard before Nuevo Road and construction of a right turn lane along the same, for the purpose of easing traffic flow and reducing traffic congestion at the intersection of Perris Boulevard and Nuevo Road and to and from the I-215 (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 a fee interest and temporary construction easement (the “Interests”) in a portion of certain privately-owned real property located at the northwest corner of Perris Boulevard and Nuevo Road, in the City of Perris, County of Riverside, California, with Assessor’s Parcel No. 320-260-001 (“Property”), as more particularly described in Exhibits “A1” (fee interest) and “A2” (temporary construction easement), which are attached hereto and incorporated by this reference, and as depicted on the diagrams attached hereto as Exhibits “B1” (fee interest) and “B2” (temporary construction easement), which are incorporated by this reference; and

WHEREAS, on or about March 30, 2012, the City made a written offer to acquire the Interests 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 Interests to the City as of the date of this Resolution; and

WHEREAS, on April 20, 2012, a Notice of Intent to Adopt a Resolution of Necessity for acquisition of the Interests (a copy of which is attached hereto as Exhibit “C” and incorporated by this reference) was served 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 and to other addresses, 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 set out in said Notice of Hearing was held on May 8, 2012, 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 the offer meeting the requirements of *Government Code* Section 7267.2 has been given; and
- (e) Whether all other prerequisites for the exercise of eminent domain to acquire the fee interest have been met.

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

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 facts and conclusions referenced in this Resolution, and the findings made by the City Council herein, are supported by substantial evidence contained in the record of this proceeding.

Section 2. The Interests to be acquired consist of a fee interest and temporary construction easement for the Project in portions of the Property located within the City of Perris, County of Riverside, State of California, with Assessor's Parcel No. 320-260-001, and more specifically described above and in Exhibits "A1" and "A2".

Section 3. That the public interest, convenience, and necessity the Project. The Project consists of widening westbound Nuevo Road before Perris Boulevard and constructing a right turn lane along the same, and widening southbound Perris Boulevard before Nuevo Road and constructing a right turn lane along the same. Currently, there is no right turn lane from westbound Nuevo Road to northbound Perris Boulevard, and vehicles along westbound Nuevo Road that want to turn onto northbound Perris Boulevard must wait in a long queue, along with other vehicles travelling along westbound Nuevo Road towards the I-215, when the intersection signal is not green. Likewise, there is no right turn lane from southbound Perris Boulevard to westbound Nuevo Road, and vehicles along southbound Perris Boulevard that want to turn onto westbound Nuevo Road towards I-215 must wait in a long queue, along with other vehicles travelling along southbound Perris Boulevard, when the intersection signal is not green. The long queues block traffic to and from the adjacent properties and commercial centers at the above locations and increase traffic congestion, reduces traffic flow, and contributes to increased vehicle idling and air pollution. There is a need for right turn lanes at these locations because the intersection at Nuevo Road and Perris Boulevard is one of the main intersections in the City, especially with the added industrial and manufacturing businesses that have located in the City. The Project is intended to ease traffic flow, reduce traffic congestion at the intersection of Perris Boulevard and Nuevo Road and to and from the I-215 and properties within the immediate area, and improve traffic safety and emergency vehicle response times.

Section 4. The Project is planned and located in a manner that will be the most compatible with the greatest public good and the least private injury. Both Nuevo Road and Perris Boulevard are already constructed. To re-route both Nuevo Road and Perris Boulevard would be cost prohibitive because not only the road, but additional private property will required for acquisition or relocated. Furthermore, the Interests consist of five-foot strips of property along both Nuevo Road and Perris Boulevard and are mostly of sidewalk and landscaped embankments. Both Nuevo Road and Perris Boulevard are part of the City's General Plan and Circulation Element.

Section 5. The taking of the Interests in portions of said Property as described above are necessary for the Project because the Project cannot be constructed without the Interests. Again, the Interests consist of mostly of five-foot strips of property for the widening of Nuevo Road and Perris Boulevard, and the rights-of-way are already constructed and part of the City's General Plan Circulation Element. Furthermore, the acquisition is authorized by Section 19 of Article 1 of the California Constitution, Section 1230.010 *et seq.* of the California *Code of Civil Procedure*, and Sections 37350, 37350.5, 37353, and 40404 of the California *Government Code*.

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 30, 2012, and the City has pursued negotiations thereafter, and negotiations with the owners of the Interests in the Property have not been successful.

Section 7. The environmental impacts and effects of the Project were fully addressed and all obligations imposed by the California Environmental Quality Act have been complied with for the Project.

Section 8. The City hereby declares its intent to acquire the Interests in portions of the Property described in Exhibits "A1" and "A2" 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 in portions of the Property described herein have been complied with by the City.

Section 9. 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 portions 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 8th day of May, 2012.

DARYL R. BUSCH
MAYOR OF THE CITY OF PERRIS

ATTEST:

JUDY L. HAUGHNEY, C.M.C.
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PERRIS)

I, JUDY L. HAUGHNEY, City Clerk of the City of Perris, California, do hereby certify that Resolution Number 4499 was adopted by the City Council of the City of Perris at a regular meeting held on the 8th day of May, 2012, and that the same was adopted by the following vote:

AYES: LANDERS, EVANS, ROGERS, YARBROUGH, BUSCH

NOES:

ABSENT:

ABSTAIN:

JUDY L. HAUGHNEY, C.M.C.
CITY CLERK