

RESOLUTION NO. 4180

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A FEE INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NOS. 302-070-005 AND 302-070-006.

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 Indian Avenue right-of-way improvements (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 in a portion of certain privately-owned real property located in Lot 5 of Block 8 of Riverside Tract, located on the Northeast corner of Perry Avenue and Indian Avenue, in the City of Perris, County of Riverside, California with Assessor’s Parcel Nos. 302-070-005 and 302-070-006 as more particularly described in Exhibit “A” which is attached hereto and incorporated by this reference, (hereinafter the “Property”) and to be located as depicted on the diagram attached hereto as Exhibit “B” which is incorporated by this reference; and

WHEREAS, on or about October 14, 2008, the City made a written offer to acquire the fee interest in a portion of the Property 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 fee interest to the City as of the date of this Resolution; and

WHEREAS, on January 6, 2009, a Notice of Intention to Adopt a Resolution of Necessity for Acquisition of A Fee Interest in Certain Real Property identified as Assessor’s

Parcel Nos. 302-070-005 and 302-070-006 (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, 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 January 27, 2009, 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 fee interest proposed to be acquired is 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 fee interest in a portion 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 interest to be acquired consists of a fee interest for the Project in a portion of the Property located within the City of Perris, County of Riverside, State of

California, Assessor's Parcel Nos. 302-070-005 and 302-070-006, and more specifically described above and in Exhibit "A".

Section 3. That the public interest, convenience, and necessity require the acquisition by the City a fee interest for the Project. The Project will improve traffic flow and ease congestion through the Project area. The Property is located within the boundaries of the City of Perris and will improve traffic safety, provide a means of access to the properties located adjacent to the Project, and will provide an identity to this revitalized area and enhance property values. The Project is planned and located in a manner which will be the most compatible with the greatest public good and the least private injury. The taking of the fee interest in a portion of said Property as described above is necessary for the Project because the Project cannot be constructed without the fee interest and 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 4. 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 October 14, 2008, and the City has pursued negotiations thereafter, and negotiations with the owner of the fee interest in the Property has not been successful.

Section 5. 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 6. The City hereby declares its intent to acquire a fee interest 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 fee interesting a portion of the Property described herein have been complied with by the City.

Section 7. 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 fee 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.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Perris this 27th day of January 2009.

MAYOR, DARYL R. BUSCH

ATTEST:

CITY CLERK, JUDY L. HAUGHNEY

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 No.4180 was adopted by the City Council of the City of Perris at a regular meeting held on the 27th day of January 2009, and that the same was adopted by the following vote:

AYES:	COUNCILMEMBERS:	Landers, Evans, Rogers, Yarbrough, Busch
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

CITY CLERK, JUDY L. HAUGHNEY