

RESOLUTION NUMBER 4009

A RESOLUTION OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A FEE INTEREST AND AN EASEMENT INTEREST IN PORTIONS OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NOS. 306-260-003 AND 306-260-004

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 Government Code §§ 37350, 37353, 37350.5 and 40404; and

WHEREAS, the "Project", for the purposes of this acquisition, consists of construction of Line A-H drain 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 an easement interest and fee interest in portions of certain privately-owned real properties with Assessor's Parcel Nos. 306-260-003 and 306-260-004, which are located in the City of Perris, as more particularly described in Exhibits "A-4" and "A-5", which are attached hereto and incorporated by this reference (hereinafter the "Properties"), and to be located as depicted on the diagrams attached hereto as Exhibits "B-4" and "B-5", which are incorporated by this reference; and

WHEREAS, on or about June 8, 2007, the City made a written offer to acquire the easement interest and fee interest in the Properties to the record owner of the Properties at an amount that was not less than the appraised fair market value, in compliance with Government Code § 7267.2(a), and the owner of the Properties has not accepted said offer or otherwise conveyed the interests in the Properties to the City as of the date of this Resolution; and

WHEREAS, on June 25, 2007, a Notice of Intention to Adopt a Resolution of Necessity for Acquisition of Certain Real Property Identified as Assessor's Parcel Nos. 306-260-003 and 306-260-004 (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 Properties, 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 July 10, 2007, 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 and easement 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 Properties have been met.

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 and fee interest in the Properties 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 an easement interest and a fee interest in the portions of the Properties located within the City of Perris, County of Riverside, State of California, Assessor's Parcel Nos. 306-260-003 and 306-260-004, and more specifically described above and in Exhibits "A-4" and "A-5."

Section 3. That the public interest, convenience, and necessity require that the City acquire the Properties for the Project. The Project will improve storm water control facilities. 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 easement interest and fee interest in said Properties as described above is necessary for the Project because the Project cannot be constructed without the easement interest and 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 Government Code.

Section 4. The offer required by Government Code Section 7267.2 has been made to the owner of record of the Properties, by way of letter dated June 8, 2007, and the City has pursued negotiations thereafter, and negotiations with the owner of the fee interest in the Properties have 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 an easement interest and fee interest in the Properties described in Exhibits "A-4" and "A-5" 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 Properties 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 easement interest and fee interest in the Properties 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 prejudgment possession and occupancy of the Properties.

ADOPTED, SIGNED and APPROVED this 10th day of July, 2007.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Judy L. Haughney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4009 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 10th day of July, 2007, and that it was so adopted by the following called vote:

AYES: Yarbrough, Landers, Motte, Rogers, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Judy L. Haughney