

RESOLUTION NUMBER 3826

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTIES IN FEE LOCATED ON THE NORTH AND SOUTH SIDES OF RIDER STREET BETWEEN BRADLEY ROAD AND MAIN STREET (APNS: 307-020-027 AND 308-200-001 THROUGH AND INCLUDING 308-200-008), IN THE CITY OF PERRIS, CALIFORNIA FOR ROAD IMPROVEMENTS

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, Sections 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 the Rider Street widening project between Bradley Road and Main Street and uses appurtenant thereto (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 fee interests in portions of certain privately-owned pieces of real property for right-of-way purposes. The properties at issue are referred to as Assessor’s Parcel Nos. 307-020-027 and 308-200-001 through and including 308-200-008 and are located on the north and south sides of Rider street between Bradley Road and Main Street, in the City of Perris, as more particularly described in Exhibit “A”, attached hereto and incorporated by this reference, (hereinafter, collectively, the “Properties”), located as depicted on the diagrams attached hereto as Exhibit “B”, which is incorporated by this reference; and

WHEREAS, on or about September 19, 2006, the City made written offers, to the record owners of the Properties, to acquire fee interests in portions 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 six of the nine owners of the Properties have not accepted said offer or otherwise conveyed the interests in the Properties to the City as of the date of this Resolution. Three of the nine property owners have verbally accepted the City’s offer but have yet to execute the City’s purchase agreement; and

WHEREAS, on October 4, 2006, a Notice of Intention to Adopt a Resolution of Necessity for Acquisition of Certain Real Property Identified as Assessors Parcel Nos. 307-020-027 and 308-200-001 through and including 308-200-008 (copies of which are attached hereto as Exhibit “C” and incorporated by this reference) were mailed 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;

WHEREAS, the hearing set out in said Notice of Hearing was held on November 14, 2006, 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 Properties 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 fee interests in the Properties for the stated purposes; and

WHEREAS, the Project for which the Properties are sought have previously been reviewed under applicable environmental procedures conducted by the City;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby does find, determine, resolve 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 properties to be acquired consist of fee interests for street right-of-way purposes and uses appurtenant thereto in the properties located within the City of Perris, County of Riverside, State of California, and are located on the north and south sides of Rider street between Bradley Road and Main Street, Assessor's Parcel Nos. 307-020-027 and 308-200-001 through and including 308-200-008, and are more specifically described above and in Exhibit "A."

Section 3. That the public interest, convenience, and necessity require the acquisition by the City of fee interests for street right-of-way purposes and uses appurtenant

thereto in the Properties. The Project will relieve congestion and increase traffic flow through the Project area. The Properties are 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 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 interests in said Properties, as described above, is necessary for the Project because the Project cannot be constructed without the Properties, and the acquisition is authorized by Section 19 of Article 1 of the California Constitution, Section 1230.010, *et seq.*, and Section 1240.410, *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 Property, by way of letter dated September 19, 2006, and the City has pursued negotiations thereafter, and negotiations with the owners of fee interests in the Properties have not been successful.

Section 5. The Project is categorically exempt as demonstrated by the Notice of Exemption, prepared and filed with the County Clerk of Riverside on January 12, 2004, pursuant to Section 15301 of the California Environmental Quality Act.

Section 6. The City hereby declares its intent to acquire fee interests in the Properties 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 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 fee interests 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 possession and occupancy of the Properties.

ADOPTED, SIGNED and **APPROVED** this 14th day of November, 2006.

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 3826 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 14th day of November, 2006, and that it was so adopted by the following called vote.

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

City Clerk, Judy L. Haughney