

RESOLUTION NO. 2827

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS DIRECTING AND AUTHORIZING, ON BEHALF OF THE MARCH JOINT POWERS AUTHORITY, THE CONDEMNATION OF CERTAIN REAL PROPERTY IN THE CITY OF PERRIS, STATE OF CALIFORNIA AND DECLARING THE PUBLIC NECESSITY THEREFOR

WHEREAS, the City of Perris is authorized under the provisions of Sections 37350.5, 38010 and 40404 of the California Government Code and Section 1240.020 of the Code of Civil Procedure to acquire property by eminent domain for public purposes; and

WHEREAS, the public purposes to be fulfilled by the City's acquisition of the property described herein are the extension, widening, and realignment of Oleander Avenue and a portion of Indian Avenue in the City of Perris (the "Project"), which shall be accomplished by the March Joint Powers Authority ("March JPA") to serve the March Inland Port, the civilian portion of the joint use aviation facility at March Air Reserve Base; and

WHEREAS, the March JPA relies on its member agencies (including the City of Perris) to adopt resolutions of necessity on behalf of the March JPA when property must be acquired by eminent domain;

WHEREAS, on February 13, 2001, the City Council of Perris held a hearing for the purpose of allowing the record owners of the property specifically described in the legal descriptions attached as Exhibit "1" (the "Property") a reasonable opportunity to appear and 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 Property proposed to be acquired is necessary for the Project; and
- (d) Whether the offer required by Government Code Section 7267.2 had been given;

and whether the City had properly exercised all of its statutory responsibilities and duties antecedent to the exercise of eminent domain against the Property; and

WHEREAS, the City Council, as a result of such hearing, has determined that the public health, safety, and welfare require that the City acquire various interests in the Property more particularly described in Exhibit "1" attached hereto. The acquisition shall include fee simple interests, slope easements, and temporary construction easements necessary for the construction of the Project, and

WHEREAS, the project for which the Property to be acquired is sought has previously been reviewed under applicable environmental review procedures conducted by the March JPA; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Perris, hereby does find determine, and declare based upon evidence presented to it as follows:

Section 1. The Property to be acquired is more particularly described in Exhibit "1" attached hereto, and is located within the City of Perris, County of Riverside, State of California. The Property interests to be acquired include fee title, slope easements, and temporary construction easements. The temporary construction easements shall consist of the interests described below:

The temporary construction easement is a nonexclusive easement which permits the March JPA, its officers, agents, employees, and contractors, to enter upon, occupy, and pass over the temporary easement area as deemed reasonably necessary for all purposes incidental to the Project. The temporary construction easement shall include the right to perform any necessary excavation; grading; earth fill; compaction; installation of concrete forms; landscaping; irrigation; utility and sign relocation; accommodation of private drainage facilities; and deposit of tools, equipment, and material for all such necessary activities which are reasonably incidental to the work being performed on said Property in connection with the Project.

Such incidental activities shall include, but not be limited to, adjusting grade differentials between the planned street and the adjoining real property and/or matching existing concrete and/or asphalt paved areas, and/or natural grade areas, or such work as may pertain to on-site improvements to render the temporary construction easement area or the larger parcel to which it pertains in the same functional condition as reasonably practicable to the condition before the Project in terms of access, irrigation, and relation of public right of way improvements to the larger parcel.

The temporary construction easement shall not include the right to store any materials or park any vehicles which are not incidental to the work to be performed on site in connection with the Project, nor to block any vehicular access to the larger parcel of property of which the temporary construction easement area is a part. In connection with the exercise of the temporary construction easement rights hereunder, the March JPA shall protect all structures on the temporary construction easement area in place, and shall protect or restore all improvements thereon.

The rights granted hereunder shall commence fourteen (14) days after written notification to the property owner and shall continue in full force and effect until written notice to the owner of record that the temporary construction easement is no longer needed by the March JPA, or twelve (12) months after notice of the initiation of the temporary construction easement, whichever is earlier. Upon termination of the temporary construction easement, the temporary construction

easement area shall be restored to a condition that is as functionally equivalent as is practicable to its condition prior to the commencement of the work, consistent with the project as designed and as to be constructed.

Section 2. The public interest and necessity require the Project, in that the Project will help alleviate conflicts between the affected roadways and aviation standards that currently exist within the south clear zone for the March Air Reserve Base, and will improve access to the March Inland Port.

Section 3. The Project is planned and located in a manner most compatible with the greatest public good and least private injury, in that the widening and realignment are necessary in order to maintain the continuity of the alignment of the roads for all users. The Project is designed in a manner compatible with the greatest public good, in that the Project will involve the extension, widening, and realignment of Oleander Avenue and Indian Avenue which will enhance the utility of the area by improving traffic circulation. The Project will result in the least private injury in that the property chosen for potential acquisition was done to minimize the number of property owners affected, and to avoid impacts to residential properties.

Section 4. The Property is necessary for the proposed Project, in that the roadway widening must occur on property immediately adjacent to the existing roadway.

Section 5. The offer required by Government Code Section 7267.2 has been made to the record owners by March JPA staff. March JPA staff have attempted to negotiate with the record owners subsequent to this offer, but such negotiations have not proved successful in securing the necessary property interests outside of more formal proceedings.

Section 6. To the extent any of the property to be taken herein is devoted to a public use, the City finds that the proposed use for the Project is compatible with, or more necessary to, such public use, and that the City is authorized to acquire the Property pursuant to Code of Civil Procedure Sections 1240.510 and 1240.610.

Section 7. The Project has been reviewed and approved under the California Environmental Quality Act by the March JPA by way of adoption of a Negative Declaration, and the City Council, based on information provided by the March JPA, finds and determines that since the time of that adoption there have been no subsequent changes with respect to the circumstances under which the Project is to be undertaken, no new information of substantial importance regarding significant effects or mitigation measures or alternatives has become available, and no subsequent changes have been proposed in the Project which would require an environmental impact report, such that no further environmental review attending this proposed acquisition is necessary.

Section 8. The City Attorney in conjunction with the law firm of Alhadeff & Solar, LLP, counsel to the March JPA, 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 Property described herein. Said counsel are also authorized and directed to obtain any necessary order of the Court granting the March JPA the right of prejudgment and immediate possession and occupancy of the Property.

PASSED AND ADOPTED by the City Council of the City of Perris at a regular meeting thereof held on the 13th day of February, 2001.

Daryl Busch, Mayor

ATTEST:

Margaret Rey, City Clerk
City of Perris

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

I, MARGARET REY, City Clerk of the City of Perris, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Perris on the 13th day of February 2001, and was carried by the following roll call vote, to wit;

AYES: Yarbrough, Larios, Motte, Rogers, Busch
NOES:
ABSENT:

Margaret Rey, City Clerk
City of Perris

EXHIBIT "1"

LEGAL DESCRIPTIONS OF THE PROPERTY

[ON FOLLOWING PAGES]