

**RESOLUTION NUMBER 2888**

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, RIVERSIDE COUNTY, APPROVING TENTATIVE PARTIAL CANCELLATION OF A LAND CONSERVATION (WILLIAMSON ACT) CONTRACT FOR AN 83.51 ACRE PARCEL (PLANNING CASE NUMBER 01-0155 - CATELLUS DISTRIBUTION CENTER)***

**WHEREAS**, the City of Perris has received an application for diminishment, or partial cancellation, of a Land Conservation Contract (pursuant to the Williamson Act) with respect to an 83.51 acre parcel of land located at the south side of Morgan Street between Indian Avenue and Webster Avenue (Assessor's Parcel Number 303-040-01) in the City of Perris and more particularly depicted on Exhibit "A" attached hereto and made a part hereof (the "Subject Property"); and

**WHEREAS**, the Subject Property lies within the Perris Valley Agricultural Preserve Number 1 – Map Number 56, and is subject to that certain Land Conservation Contract dated January 1, 1970, and recorded on February 27, 1970, as Instrument No. 19066 in the Official Records of the County of Riverside, California, as reformed and restated in that certain Reformed and Corrected Land Conservation Contract dated January 1, 1985 and recorded on January 18, 1995 as Instrument No. 11676 in the Official Records of the County of Riverside, California (the "Landowner's Land Conservation Contract").

**WHEREAS**, Government Code Section 51282 permits a landowner to petition the City Council of the City of Perris ("City Council") to cancel a portion of a Land Conservation Contract; and

**WHEREAS**, Government Code Section 51282 permits the City Council to grant tentative approval for the cancellation of a Land Conservation Contract (or a portion thereof) where the City Council finds that certain requirements have been satisfied; and,

**WHEREAS**, City of Perris Municipal Code Section 19.74.040 specifies procedures for tentative cancellation of a Land Conservation Contract; and,

**WHEREAS**, the Landowner has applied for an alternative land use for the Subject Property consisting of the development of a 1, 656, 235 square foot warehouse/distribution center. (Development Plan Review 01-0123); and,

**WHEREAS**, the following information has been submitted to warrant findings that the cancellation of the Land Conservation Contract is consistent with the purposes of the Williamson Act (Government Code Section 51240 et seq.):

1. The Landowner has served a Notice of Non-renewal relative to the Landowner's Land Conservation Contract within the City in compliance with Government Code Section 51245; and it has been recorded with the following Instrument Number: **2001-575456**.

2. Adjacent lands remaining subject to the Landowner's Land Conservation Contract are part of a contiguous ownership of the Landowner, and are currently leased to a single operator for sod production. It is not likely that the cancellation of Landowner's Land Conservation Contract for the Subject Property will result in the removal of the adjacent lands from agricultural use.

3. The City of Perris General Plan adopted in 1991 envisioned and contemplated the gradual elimination of agricultural land within the City and designated the Subject Property and surrounding lands with a Light Industrial General Plan Land Use Designation. The proposed alternative land use is 1, 656, 235 square foot warehouse distribution center. (Development Plan Review 01-0123). Manufacturing uses are consistent with the Light Industrial designation in that, the General Plan description states: "Light Industrial uses include manufacturing, research, warehousing/distributing, and assemblage of non-hazardous products and materials."

4. North of the site (beyond Morgan Street) is the Lowe's Western Distribution Center and Starcrest Industries (a mail order distribution firm). The proposed use of the Subject Property will continue the pattern of urban development contemplated by and consistent with the City's General Plan.

5. Surrounding properties are either used for sod production or are developed with industrial facilities and as such are not available for development. There are no proximate noncontracted lands within the City, that fulfill the necessary criteria for development of the proposed facility.

**WHEREAS**, the City believes it has satisfied both its statutory obligations and its own procedures in finding that the cancellation of Landowner's Land Conservation Contract relative to the Subject Property is consistent with the purposes of the Williamson Act. However, for the sake of clarity, the following information has also been submitted to warrant findings that the cancellation of the Land Conservation Contract is in the public interest:

1. The proposed warehouse/distribution will significantly contribute to the economic vitality and job production of the City.

2. Surrounding properties are either used for sod production or are developed with industrial facilities and as such are not available for development. There are no proximate noncontracted lands within the City, that fulfill the necessary criteria for development of the proposed facility; and,

**WHEREAS**, the County of Riverside Office of the Assessor, in accordance with Government Code Section 51283, has determined and certified the cancellation value of the subject property as \$3,705,000.00; and,

**WHEREAS**, the City's procedures under Municipal Code Section 19.74.040 are consistent with the procedures required by the Williamson Act; and

**WHEREAS**, the City Council conducted a duly noticed public hearing concerning the application for tentative cancellation of Landowner's Land Conservation Contract with respect to the Subject Property; and,

**WHEREAS**, an Initial Study and Draft Mitigated Negative Declaration have been prepared, advertised, and circulated, pursuant to the California Environmental Quality Act with regard to the proposed use of the Site.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Perris as follows:

**Section 1.** The City Council has considered and hereby adopts the findings of fact set forth in the above recitals.

**Section 2.** The City Council has reviewed and considered the environmental documentation and information included in the staff reports prior to taking action on the Landowner's application for tentative cancellation of Landowner's Land Conservation Contract with respect to the Subject Property, and finds and determines that the proposed use of the Site will not cause or create a significant adverse effect on the environment because the mitigation measures described in the Initial Study will mitigate the impacts to less than significant, and that the Negative Declarations reflect the independent judgement of the City Council.

**Section 3.** The City Council has adopted Negative Declaration Number 2100 and the Mitigation Monitoring Plan, addressing the potential environmental impacts of the proposed use of the Site.

**Section 4.** The City Council further finds and determines that there is no substantial evidence, in light of the whole record before the City, that the Project would have a significant effect on the environment. The documents and other materials which constitute the record of proceedings upon which the City's findings and decision are based are located at the Department of Planning and Community Development, 101 North D Street, Perris, California 92570. The custodian of these documents and materials is the Director Department of Planning and Community Development.

**Section 5.** The City Council hereby finds and determines that the cancellation of the Landowner's Land Conservation Contract relative to the Subject Property is consistent with the purposes of the Williamson Act in that the City Council finds that:

1. The cancellation is for land for which a notice of non-renewal has been served pursuant to Government Code Section 51245;
2. The cancellation is not likely to result in the removal of adjacent lands for agricultural use;

3. The cancellation is for the alternative use which is consistent with applicable provisions of the City's General Plan;

4. The cancellation will not result in discontinuous patterns of urban development; and

5. There is no proximate non-contracted land which is both available and suitable for the use to which the Subject Property is proposed be put, and, that development of the Subject Property will provide more contiguous patterns of urban development than development of proximate non-contracted land.

**Section 6.** The City Council hereby finds and determines that the cancellation of the Landowner's Land Conservation Contract relative to the Subject Property is in the public interest in that the City Council finds that:

1. Other public concerns substantially outweigh the objectives of the William Act; and

2. There is no proximate non-contracted land which is both available and suitable for the use to which the Subject Property is proposed be put, and, that development of the Subject Property will provide more contiguous patterns of urban development than development of proximate non-contracted land.

**Section 7.** Pursuant to Government Code Section 51283, the City Council hereby determines and certifies the amount of the cancellation fee, which Landowner shall pay the County Treasurer, in the amount of \$463,125.00 which is 12 ½ percent of the total cancellation value as determined by the County of Riverside Office of the Assessor.

**Section 8.** The City Council hereby finds that the provisions of the City of Perris Municipal Code Section 19.74.040 have been satisfied.

**Section 9.** The City Council hereby tentatively approves the cancellation of Landowner's Land Conservation Contract relative to the Subject Property; the cancellation of Landowner's Land Conservation Contract relative to the Subject Property shall be contingent upon the following conditions being satisfied:

1. The cancellation fee of \$463,125.00 computed under the provisions of Government Code Section 51283 and 51283.1, which was determined and certified by the City Council, shall be paid in full prior to the issuance of building permits. If the fee is not paid within one year from the date of the recording of the certificate of tentative cancellation, such fee shall be re-computed as of the date of notice when the landowner notifies the City Council that he has satisfied the conditions and contingencies enumerated in this Section 9.

2. The Landowner shall obtain approval of Development Plan Review 01-0123 (the discretionary permit necessary to commence the project) and shall obtain the grading permits to necessary to commence grading of the project.

**Section 10.** The City Council hereby directs the City Clerk to: (i) prepare, certify and transmit to the County Recorder a certificate of tentative cancellation (in a form meeting the requirements of Government Code Section 51283.4(a) and approved by the City Attorney); (ii) publish a notice of this Resolution in accordance with Government Code Section 51284 within 30 days of the date hereof; and (iii) deliver a copy of said published notice to the Director of Conservation in accordance with Government Code Section 51284.

**Section 11.** All actions heretofore taken by the officers of the City of Perris with respect to the partial cancellation of the Landowner's Land Conservation Contract are hereby approved, confirmed and ratified, and the Mayor and City staff are hereby authorized and directed to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution.

**Section 12.** The City Council declares that, should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

**Section 13.** The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Resolution.

***ADOPTED, SIGNED and APPROVED*** this 13th day of November 2001.

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MAYOR OF THE CITY OF PERRIS

Attest:

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City Clerk

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

I, Margaret Rey, duly elected City Clerk of the City of Perris, California, do hereby certify that the foregoing Resolution Number 2888 adopted by the City Council of the City of Perris at a regular meeting thereof held on the 13th day of November, 2001, by the following vote:

Ayes:                    Busch, Rogers, Yarbrough, Motte  
Noes:  
Abstain:                Larios

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City Clerk