

RESOLUTION NUMBER 3537

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THE PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF FEE INTERESTS IN THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NOS. 302-150-018 and 302-150-019

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 Evans Road Right-of-Way for expansion of Evans Road 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 a fee interest in certain privately owned real property for street right-of-way purposes of the property with Assessor's Parcel Nos. 302-150-018 and 302-150-019, which are located on the west corner of Evans Road, North of Ramona Expressway, in the City of Perris, as more particularly described in Exhibit "A", 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 September 22, 2005, the City made a written offer to acquire a fee interest in 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 § 7267.2(a), and the owner of the Property has not accepted said offer or otherwise conveyed the interests in the Property to the City as of the date of this Resolution; and

WHEREAS, on October 28, 2005, a Notice of Intention to Adopt a Resolution of Necessity for Acquisition of Certain Real Property Identified as Assessors Parcel Nos. 302-150-018 and 302-150-019 (a copy of which is attached hereto as Exhibit "C" and incorporated by this reference) was personally 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 November 29, 2005, 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 property 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 Property 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 a fee interest in 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 property to be acquired consists of a fee interest 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, which are located on the west corner of Evans Road, North of Ramona Expressway, Assessor's Parcel Nos. 302-150-018 and 302-150-019, and more specifically described above and in Exhibit "A".

Section 3. That the public interest, convenience, and necessity require the acquisition by the City of a fee interest for street right-of-way purposes and uses appurtenant to the Property. The Project will relieve congestion and increase traffic flow 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 said Property as described above is necessary for the Project because the Project cannot be constructed without the Property 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 22, 2005, and the City has pursued negotiations thereafter, and negotiations with the owner of the fee interest in the Property 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 a fee interest in 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 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 a fee interest in 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.

ADOPTED, SIGNED and **APPROVED** this 29th day of November, 2005.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Margaret Rey

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

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 3537 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 29th day of November, 2005, and that it was so adopted by the following called vote:

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

City Clerk, Margaret Rey