

RESOLUTION NUMBER 4678

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DECLARING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF A FEE INTEREST IN A PORTION OF THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 302-100-013

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 Sections 37350, 37353, 37350.5 and 40404 of the California *Government Code*; and

WHEREAS, the “Project” for the purposes of this acquisition consists of Harley Knox Boulevard/Redlands right-of-way 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 a fee interest in a portion of certain privately-owned real property located on the northwest corner of Nance Street and Redlands Avenue, in the City of Perris, County of Riverside, California, with Assessor’s Parcel No. 302-100-013 as more particularly described in Exhibit “A” which is attached hereto and incorporated by this reference, and to be located as depicted on the diagram attached hereto as Exhibit “B” which is incorporated by this reference (hereinafter the “Fee Interest”); and

WHEREAS, on or about November 25, 2013, the City made a written offer to acquire the Fee Interest to the record owners of the Property at an amount that was not less than the appraised fair market value in compliance with *Government Code* Section 7267.2(a), and the owners of the Property have not accepted said offer or otherwise conveyed the Fee Interest to the City as of the date of this Resolution; and

WHEREAS, on December 23, 2013, a Notice of Intent to Adopt a Resolution of Necessity for Acquisition of A Fee Interest in certain real property identified as Assessor’s Parcel No. 302-100-013 (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 Property, and to the address appearing on said Roll and to other addresses, 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 January 14, 2014, 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 Interest proposed to be acquired is necessary for the Project;
- (d) Whether an 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 Fee Interest have been met.

WHEREAS, the City Council, as a result of such hearing, has determined that public health, safety, and welfare require the City to acquire the Fee Interest in a portion of 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 referenced in this Resolution, and specifically the recitals above are found to be true and are incorporated herein by this reference. The findings made by the City Council herein are supported by substantial evidence contained in the record of this proceeding.

Section 2. The interest to be acquired consists of the Fee Interest for the Project in a portion of the Property located within the City of Perris, County of Riverside, State

of California, Assessor's Parcel No. 302-100-013, as more specifically described above and in Exhibit "A" and depicted in Exhibit "B".

Section 3. The public interest, convenience, and necessity require the Project to ease traffic flow to and from the I-215 and adjacent properties in the North Perris area. Currently Harley Knox Boulevard consists of four lanes from the I-215 to Patterson Avenue and only two lanes from Patterson Avenue to Perris Boulevard. Harley Knox Boulevard is not constructed from Perris Boulevard to Redlands Avenue and likewise, Redlands Avenue is not constructed from Harley Knox Boulevard to Ramona Expressway. Harley Knox Boulevard will not be extended easterly of Redlands to Evans Road but traffic on Evans Road will have access to the truck routes by way of Ramona Expressway. Several large developments within the immediate area are being constructed and require right-of-way access for Harley Knox Boulevard and Redlands Avenue. Likewise, upon the development of the Property, access to Harley Knox Boulevard and Redlands Avenue will also be necessary. The Project is intended to ease traffic flow and reduce traffic congestion that exists along Ramona Expressway, which is parallel to and southerly of Harley Knox Boulevard. The Project will also provide better access to and from the I-215 and improve traffic safety and emergency vehicle response times.

Section 4. The Project is planned in a manner which will be the most compatible with the greatest public good and the least private injury. Both Harley Knox Boulevard and Redlands Avenue are part of the City's General Plan and Circulation Element. Harley Knox Boulevard is improved along its depicted route to the west of Perris Boulevard, and Redlands Avenue is improved along its depicted route to the south of Ramona Expressway. To re-route both Harley Knox Boulevard and Redlands Avenue would be cost prohibitive because the road and additional private property will required for acquisition or relocation. Also, the Property is vacant and cannot be developed without the Project.

Section 5. The acquisition of the Fee Interest in the Property is necessary for the Project because without the Fee Interest, the Project cannot be constructed. Again, the Fee Interest is part of the ultimate widths of Harley Knox Boulevard and Redlands Avenue, and the rights-of-way elsewhere are already constructed and part of the City's General Plan Circulation Element. Acquisition of the Fee Interest is expressly authorized by Section 19 of Article 1 of the

California Constitution, California *Code of Civil Procedure* Sections 1240.010 through 1240.050 and Sections 1240.410 through 1240.430, and *Government Code* Sections 37350, 37353, 37350.5 and 40404.

Section 6. 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 November 25, 2013, and the City has pursued negotiations thereafter, and negotiations with the owner of the Fee Interest in the Property have not been successful.

Section 7. The City hereby declares its intent to acquire a Fee Interest in a portion of 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 Fee Interest described herein and the Project have been complied with by the City.

Section 8. 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 9. 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 fee interest in a portion of 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.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council of the City of Perris this 14th day of January, 2014.

DARYL R. BUSCH
MAYOR OF THE CITY OF PERRIS

ATTEST:

NANCY SALAZAR
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PERRIS)

I, NANCY SALAZAR, City Clerk of the City of Perris, California, do hereby certify that Resolution Number 4678 was adopted by the City Council of the City of Perris at a regular meeting held on the 14th day of January, 2014, and that the same was adopted by the following vote:

AYES: LANDERS, RODRIGUEZ, ROGERS, YARBROUGH, BUSCH
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

NANCY SALAZAR
CITY CLERK

EXHIBIT "A"

LEGAL DESCRIPTION

EXHIBIT "B"

LEGAL DESCRIPTION PLAT

EXHIBIT “C”

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A"

**LEGAL DESCRIPTION
HARLEY KNOX BOULEVARD DEDICATION**

APN 302-100-013

IN THE CITY OF PERRIS , COUNTY OF RIVERSIDE , STATE OF CALIFORNIA , BEING THAT PORTION OF LOT 8 , BLOCK 1 OF THE RIVERSIDE TRACT AS SHOWN BY A MAP ON FILE IN BOOK 14 OF MAPS , PAGE 668 SAN DIEGO COUNTY, CALIFORNIA , SAID LAND IS SITUATED IN THE NORTHWEST ONE-QUARTER OF SECTION 5 , TOWNSHIP 4 SOUTH , RANGE 3 WEST , SAN BERNARDINO BASE AND MERIDIAN AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 8 ;
THENCE SOUTH 89°31'02" EAST ALONG THE NORTHERLY LINE OF SAID LOT 8 , A DISTANCE OF 774.34' FEET TO THE NORTHEAST CORNER OF SAID LOT 8 AT A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF REDLANDS AVENUE ;
THENCE SOUTH 00°34'38" WEST ALONG SAID RIGHT-OF-WAY LINE , A DISTANCE OF 629.98 FEET TO THE SOUTHEAST CORNER OF SAID LOT 8 ;
THENCE NORTH 89°31'12" WEST, A DISTANCE OF 33.05 FEET ;
THENCE NORTH 40°20'10" EAST , 31.36 FEET TO A POINT THAT IS 43.00 FEET WESTERLY OF THE CENTERLINE OF SAID REDLANDS AVENUE ;
THENCE NORTH 00°34'38" EAST ALONG A LINE THAT IS 43.00 FEET WESTERLY OF AND PARALLEL WITH SAID CENTERLINE , A DISTANCE OF 524.98 FEET ;
THENCE NORTH 54°29'18" WEST , 24.27 FEET TO A POINT THAT IS 64.00 FEET SOUTHERLY OF THE NORTHERLY LINE OF SAID LOT 8 ;
THENCE NORTH 89°31'02" WEST ALONG A LINE THAT IS 64.00 FEET SOUTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 8 , A DISTANCE OF 741.51 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 8 ;
THENCE NORTH 00°38'04" EAST ALONG THE WESTERLY LINE OF SAID LOT 8 , A DISTANCE OF 64.00 FEET TO THE POINT OF BEGINNING.**

CONTAINING A COMPUTED AREA OF 57,357.7 SQUARE FEET OR 1.317 ACRES, MORE OR LESS.

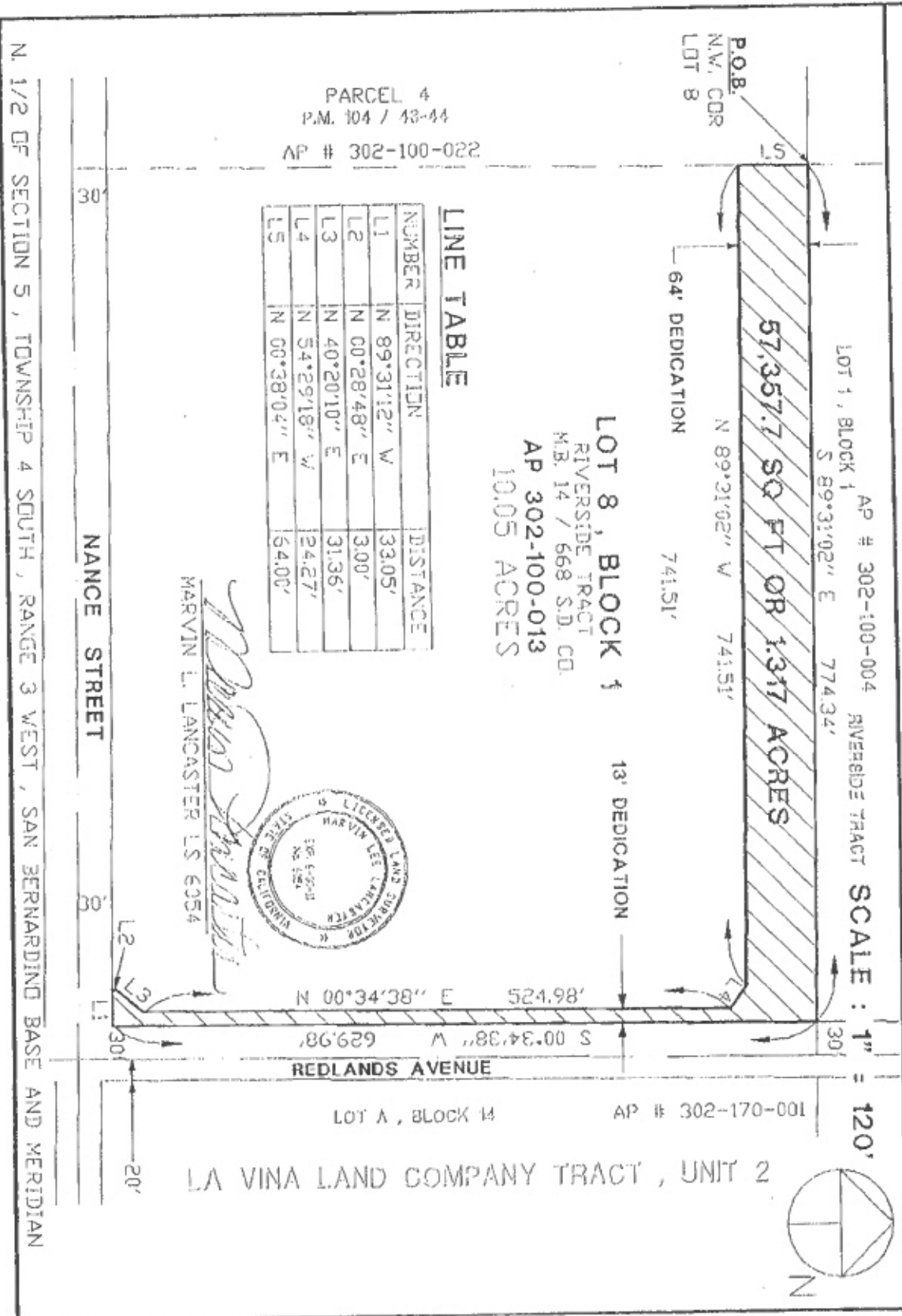
Marvin Lee Lancaster

**Marvin L. Lancaster , LS 6054
Expires 6/30/11
March 02 , 2011**



EXHIBIT "B"
LEGAL DESCRIPTION PLAT

EXHIBIT "B"
LEGAL DESCRIPTION PLAT - HARLEY KNOX BLVD. AND REDLANDS AVE.



PARCEL 4
 P.M. 104 / 43-44
 AP # 302-100-022

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 89°31'12" W	33.05'
L2	N 00°28'48" E	3.00'
L3	N 40°20'10" E	31.36'
L4	N 54°29'18" W	24.27'
L5	N 00°38'04" E	64.00'

MARVIN L. LANCASTER LS 6054




N. 1/2 OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN

EXHIBIT "C"

NOTICE OF INTENT TO ADOPT RESOLUTION OF NECESSITY



**ALESHIRE &
WYNDER LLP**
ATTORNEYS AT LAW

Respond to Orange County
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Direct (949) 250-5415

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Irvine, CA 92612
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2361 Rosecrans Ave., Suite 475
El Segundo, CA 90245
P 310.527.6660 • F 310.532.7395

Inland Empire
3880 Lemon Street, Suite 520
Riverside, CA 92501
P 951.241.7338 • F 951.300.0985

Central Valley
2125 Kern Street, Suite 307
Fresno, CA 93721
P 559.445.1580 • F 888.510.0160

awattorneys.com

December 23, 2013

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

03M
Attn: Kevin Knox
Post Office Box 305
Perris, CA 92572

Re: APN: 302-100-013
Property: Northwest corner of Nance Street and Redlands Avenue, Perris
Subject: Offer to Purchase Property

Dear Mr. Knox:

On November 25, 2013, the City of Perris (the "City") made an offer to purchase portions of the property identified as Assessor's Parcel No. 302-100-013 in the City of Perris, California, located on the northwest corner of Nance Street and Redlands Avenue, together with certain improvements ("Interests"). The City reiterates its previous offer to purchase said Interests for \$32,426, subject to the conditions stated in the offer.

You are also hereby notified that the City intends to consider the adoption of a resolution of necessity authorizing acquisition of said Interests by eminent domain. The City's governing body will consider that resolution at a meeting to be held at the following time and place:

Date: January 14, 2014
Time: 6:00 p.m.
Location: City of Perris, City Hall, Council Chambers, 101 North D Street, Perris,
California

You have the right to appear at the meeting and be heard on the following issues:

1. Whether the public interest and necessity require the project;
2. Whether the project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;

3. Whether the property sought to be acquired is necessary for the project;
4. Whether the offer required by Section 7267.2 of the *Government Code* has been made to the owners(s) of record; and
5. Whether the offer required by Section 7267.2 of the *Government Code* was made in the form and substance required by law.

NOTICE: If you fail to file a written request to be heard at the hearing within 15 days after the date of this letter, then the City may decide not to hear or consider any evidence which you may have to present. Please also be advised that, if you do not appear and present information to the City at the hearing, then you may be precluded from later challenging the City's authority to acquire portions of the property through its use of the power of eminent domain.

We understand that you have been in discussions with the City regarding this matter. Neither the pendency of the City's consideration of the resolution of necessity, nor the initiation of formal eminent domain proceedings, in any way prevents further negotiations from occurring for the acquisition of said Interests, and the City will be most willing to continue such negotiations.

If you have any comments or questions, please do not hesitate to contact our office at (949) 223-1170 or Richard Belmudez, City Manager at (951) 943-6100.

Thank you for your cooperation in this matter.

Sincerely,

ALESHIRE & WYNDER, LLP


Pam K. Lee
Attorney

PKL

cc: Richard Belmudez, City Manager (via email)
Habib Motlagh, City Engineer (via email)
Eric Dunn, City Attorney (via email)