

**RESOLUTION NO. 2024-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA APPROVING THAT CERTAIN STIPULATION FOR ENTRY OF JUDGMENT AND FINAL ORDER OF CONDEMNATION FOR THE SETTLEMENT OF THE EMINENT DOMAIN PROCEEDING INVOLVING THE CONDEMNATION OF CERTAIN REAL PROPERTY INTERESTS ON THE REAL PROPERTY LOCATED AT 31270 TOMMY LANE, TEMECULA (APN 957-150-005) IN CONNECTION WITH THE NICOLAS ROAD IMPROVEMENTS FROM BUTTERFIELD STAGE ROAD TO THE CALLE GIRASOL/NICOLAS ROAD CONNECTION**

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Findings.

A. The City of Temecula (City) is a municipal corporation, located in the County of Riverside, State of California.

B. The City is a participant of the proposed extension of Nicolas Road from Butterfield Stage Road to the Calle Girasol/Nicolas Road Connection (Project) pursuant to the Development Agreement originally approved between the City of Temecula and Ashby USA, LLC (also known as the Pre-annexation and Development Agreement) pursuant to Ordinance No. 02-14. As the Developer, Woodside 05S, LP, a California Limited Partnership and Wingsweep Corporation, a California corporation are the successors to certain of these approved applications for development and propose to construct the Sommers Bend Project. To facilitate the orderly development of the Sommers Bend Project, the Third Amendment to the Development Agreement was approved subject to certain conditions set forth on Exhibit D (New Attachment 5-A to Development Agreement) to said Third Amendment. Specifically, Condition 3(A) to Exhibit D contains a specific condition of approval requiring Developer to construct certain public improvements in connection with Nicolas Road from Butterfield Stage Road to the Calle Girasol/Nicolas Connection.

C. The Project will construct the public street, drainage, access, public utility and related improvements in connection with the proposed extension of Nicolas Road from Butterfield Stage Road to the Calle Girasol/Nicolas Road. In furtherance of the Project, on May 23, 2023, the City filed the eminent domain proceeding titled *City of Temecula v. Jose Leonardo Garcia, et al.* (CVSW2303954) to acquire by eminent domain an approximate 26,957 square foot permanent maintenance and access easement and an approximate 31,520 square foot temporary construction easement for a term of twelve months on the real property located at 31270 Tommy Lane, Temecula, and identified as Riverside County Tax Assessor's Parcel Number 957-150-005 (Property) for public use, namely for the construction of certain off-site improvements, consisting of public street, drainage, access and related improvements, and all uses necessary or thereto in

connection with the construction of the Project. The approximate 26,957 square foot permanent maintenance and access easement and an approximate 31,520 square foot temporary construction easement for a term of twelve months on the Property are referred to below collectively as the Subject Property Interests. Jose Leonardo Garcia and Mayerling Alida Monteros-Garcia (Owners) are the record owners of the Property on which the Subject Property Interests are located.

D. The City seeks to acquire the Subject Property Interests for public use, namely for public street, drainage, and related improvements, and all uses necessary or convenient thereto in connection with the Project. The City and the Owners negotiated the City's acquisition of the Subject Property Interests and the all-inclusive settlement of the eminent domain proceeding and reached an agreement pursuant to the attached Stipulation for Entry of Judgment and Final Order of Condemnation (Stipulation), subject to approval of the City Council.

E. The City is condemning the 26,957 square foot permanent maintenance and access easement for the construction of certain public street, drainage, access, public utility and related improvements and all uses necessary or convenient thereto in connection with the Project. Pursuant to the Stipulation, the City is authorized to use the approximate 31,520 temporary construction easement for a term of twelve months to facilitate the construction of the public street, drainage, access, public utility and related improvements, and all uses necessary or convenient thereto in connection with the Project. The effective date of possession for the temporary construction easement is March 28, 2024 pursuant to an Order for Possession entered by the Court on February 27, 2024. Accordingly, the termination date of the temporary construction easement is March 27, 2025.

F. Pursuant to the Stipulation, the City will pay for the benefit of Owners and Owners will accept from the City the total just compensation of \$148,925 (One Hundred Forty-Eight Thousand Nine Hundred Twenty-Five Dollars) (Total Just Compensation) as the full and final settlement of any and all of the claims of Owners arising out of or in connection with the City's acquisition of the Subject Property Interests in connection with the Project, and includes and satisfies any and all other payments, if any, that the City may be required by law to pay to Owners in the eminent domain proceeding. The Total Just Compensation includes, but is not limited to, compensation for the City's acquisition of the Subject Property Interests, severance damages, cost-to-cure damages, inverse condemnation, pre-condemnation damages, de facto taking, claims and damages relating to loss of access or impacts to access, loss of rents, loss of profits, costs, litigation expenses, expert witness fees, appraisal costs, attorneys' fees, interest, any claims and damages asserted by Owners or that Owners could assert in this eminent domain proceeding, and any other damages of every kind and nature suffered or to be suffered by Owners by reason of the City's acquisition of the Subject Property Interests, the construction and use of Project as proposed, and the eminent domain proceeding. Pursuant to the Stipulation, the City also agreed to install certain fencing depicted on EXHIBIT 4 to the Stipulation. The City agreed to provide to Owners a key to access the gate for the fencing installed by the City. Further, the Stipulation provides that any fencing installed by Owners, at their sole cost and expense, at other locations along the perimeter of the permanent maintenance and access easement or other portions of the Property along the property lines with Calle Girasol and Tommy Lane are subject to Owners' compliance with any applicable laws, regulations, or permits.

Section 2. Approval of Stipulation for Entry of Judgment and Final Order of Condemnation. The City Council of the City of Temecula hereby approves that certain Stipulation for Entry of Judgment and Final Order of Condemnation between the City of Temecula and the Owners which sets forth the terms of the full and final settlement of any and all of the claims of Owners arising out of or in connection with the City's acquisition of the Subject Property Interests in connection with the Project, and includes and satisfies any and all other payments, if any, that the City may be required by law to pay to Owners in the eminent domain proceeding. The Total Just Compensation includes, but is not limited to, compensation for the City's acquisition of the Subject Property Interests, severance damages, cost-to-cure damages, inverse condemnation, pre-condemnation damages, de facto taking, claims and damages relating to loss of access or impacts to access, loss of rents, loss of profits, costs, litigation expenses, expert witness fees, appraisal costs, attorneys' fees, interest, any claims and damages asserted by Owners or that Owners could assert in the eminent domain proceeding, and any other damages of every kind and nature suffered or to be suffered by Owners by reason of the City's acquisition of the Subject Property Interests, the construction and use of Project as proposed, and the eminent domain proceeding.

Section 3. Environmental Review. The environmental effects of the Project and the condemnation of the Subject Property Interests needed for the Project were studied and analyzed as an integral part of the Environmental Impact Report for the Roripaugh Ranch Specific Plan ("EIR") pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq., and the CEQA Guidelines, 14 Cal. Code Regs. Section 15000 et seq. ("CEQA Guidelines").

A. The environmental effects of the Project and the acquisition of the real property interests needed for the Project were studied and analyzed as an integral part of the Environmental Impact Report for the Roripaugh Ranch Specific Plan (EIR) pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq., and the CEQA Guidelines, 14 Cal. Code Regs. Section 15000 et seq. (CEQA Guidelines). On November 26, 2002, the City Council adopted Resolution 02-111, A Resolution of the City Council of Temecula, California, Certifying the Final Environmental Impact Report Prepared for the Roripaugh Ranch Specific Plan and Related Planning Applications Actions and Adopting the Environmental Findings Pursuant to the California Environmental Quality Act, and the State CEQA Guidelines, a Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations, in Connection therewith for the Roripaugh Ranch Specific Plan, Located near the Future Intersection of Butterfield Stage Road and Nicolas Road (Planning Application 94-0076). Said environmental documents are incorporated herein by this reference. Since the adoption of the EIR, five EIR Addendums have been prepared for the Development Project area. The most recent Addendum to the EIR was adopted on January 14, 2020.

B. On January 10, 2023, City Staff reviewed the environmental documentation prepared in connection with the Development Project in connection with Staff's review of the proposed acquisition of the Subject Property Interests for the Project. City Staff reviewed the EIR, the First Addendum to the EIR adopted on April 23, 2013, the Second Addendum to the EIR adopted on March 22, 2016, the Third Addendum to the EIR adopted on January 23, 2018, the Fourth Addendum to the EIR adopted on November 6, 2019, the Fifth Addendum to the EIR adopted on January 14, 2020, and determined that the Project and acquisition of the Subject Property Interests needed for the Project are consistent with the EIR and Addenda to the EIRs.

Pursuant to the criteria of Section 15162 of the CEQA Guidelines and Section 21166 of the Public Resources Code, City Staff concluded that no substantial changes have occurred in the Development Project, no substantial changes have occurred in the circumstances under which the Development Project is undertaken, and the City has obtained no new information of substantial importance that would require further environmental analysis. In adopting Resolution No. 2023-14, A Resolution of the City Council of the City of Temecula Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof in Connection with the Public Street, Drainage, Access and Related Improvements for the Nicolas Road from Butterfield Stage Road to the Calle Girasol/Nicolas Road Connection (Certain Property Interests on APN 957-150-005) and Making Findings that No Further Environmental Review is Required Pursuant to Section 15162 of the California Environmental Quality Act Guidelines and Section 21166 of the Public Resources Code, the City Council found that these environmental findings are the appropriate findings with respect to the condemnation of the Subject Property Interests for the Project.

Section 4. City Manager’s Authority. The City Manager (or the City Manager’s designee), is hereby authorized, on behalf of the City, to execute the Stipulation and to take all actions necessary and convenient to carry out and implement the Stipulation, and to administer the City’s obligations, responsibilities, and duties to be performed under the Stipulation.

Section 5. Certification. The City Clerk shall certify the adoption of this resolution.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Temecula this 10<sup>th</sup> day of December, 2024.

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James Stewart, Mayor

ATTEST:

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Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA     )  
COUNTY OF RIVERSIDE   ) ss  
CITY OF TEMECULA        )

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 2024-     was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 10<sup>th</sup> day of December, 2024, by the following vote:

AYES:                    COUNCIL MEMBERS:

NOES:                    COUNCIL MEMBERS:

ABSTAIN:                COUNCIL MEMBERS:

ABSENT:                 COUNCIL MEMBERS:

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Randi Johl, City Clerk