



Legislation Text

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**AGENDA REPORT  
REQUEST FOR CITY COUNCIL ACTION**

DATE: 07/15/2020

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

**SUBJECT:**

Public Hearing for City Council consideration of Resolutions of Necessity, declaring the necessity of acquisition, by eminent domain, of a fee interest, as well as improvements thereon, permanent roadway easements, and temporary construction easements interests in certain real property identified as Assessor Parcel No.'s (APN's) 172-420-001, 115-290-034 and 115-290-035, located on North McKinley Street, and on Sampson Avenue, south of the State Route 91 (SR-91) eastbound on-ramp for the McKinley Street Grade Separation Project.

**RECOMMENDED ACTION:**

**That the City Council:**

- a. Conduct a public hearing to consider the adoption of three Resolutions of Necessity, including providing all parties interested in the affected property and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to each Resolution of Necessity.
- b. Make the following findings as hereinafter described in this report:
  - i. The public interest and necessity require the proposed project;
  - ii. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
  - iii. The real property to be acquired is necessary for the project, and;
  - iv. The offers of just compensation have been made to the property owners.
- c. Adopt Resolutions 2020-096, 2020-097, and 2020-098, each Resolution of Necessity declaring that the acquisition of fee, permanent non-exclusive ingress and egress easement, permanent street easement, and temporary construction easements in certain real property identified as APN's 172-420-001, 115-290-034, and 115-290-035, located on North McKinley Street, and on

Sampson Avenue, south of the SR-91 eastbound on-ramp for the McKinley Street Grade Separation Project.

## **ANALYSIS:**

### **BACKGROUND:**

The City will construct a new four-lane overhead grade separation at the McKinley Street/BNSF Railway double tracks, north of the intersection with Sampson Avenue, in the City of Corona, in Riverside County, California ("the Project"). The north/south limits of improvement and required property generally extend along McKinley Street, which is consistent with the City's zoning of Support Commercial and Limited Commercial industrial land uses.

The acquisition of property interests in APN's 172-420-001, 115-290-034, and 115-290-035, is necessary for the construction of the Project. Specifically, the City must acquire fee interests, permanent roadway easements, and temporary construction easement ("TCE") interests necessary to support the construction, operation, and long-term maintenance of roadway, temporary loss of access to McKinley Street during construction, and temporary/permanent loss of parking stalls due to construction of the Project, as well as real property improvements within the limits of acquisition. Additionally, the City will acquire a permanent ingress and egress easement to replace ingress and egress which will be lost due to the construction of the Loop Road. These interests are further identified as shown on the exhibits attached to the Resolution of Necessity submitted herewith (the "Subject Properties").

Following standard public records and due diligence searches for ownership information, a notice of this public hearing was mailed to the property owners on June 29, 2020 by first class mail in accordance with Section 1245.235 of the California Code of Civil Procedure. The Subject Properties are owned by: Royal Ridge Investment, Inc.; Goodell Properties, LLC; and SJRK Investments, LLC ("Royal Ridge;" "Goodell;" and "Quickie's Car Wash/SJRK"); namely APN's 172-420-001, 115-290-034, and 115-290-035. Notice was also given to the tenants operating the Carl's Jr. restaurant located on the Subject Properties.

### **DESCRIPTION OF PROPERTY TO BE ACQUIRED:**

The parcels affected by the proposed acquisitions are all located south of the SR-91 eastbound on-ramp. The Subject Properties are located at 175 North McKinley, 2199 Sampson Avenue, and 2197 Sampson Avenue, just south of the SR- 91 eastbound on-ramp. The Shell (175 N. McKinley) is located on the east side of McKinley Street, immediately south of the SR- 91 eastbound on-ramp and owned by Royal Ridge. Carl's Jr. (2199 Sampson Avenue) is located just north of Sampson Avenue on the west side of McKinley and is owned by Goodell. Quickie's Car Wash (2197 Sampson Avenue) is located on the west side of McKinley Street at Sampson Avenue and is owned by Quickie's Car Wash/SJRK. All of which are consistent with the City's zoning of Support Commercial/Limited Commercial - Industrial land uses. The affected parcels are within the City limits. The Project has not yet started but is expected to be started by April 1, 2021 and completed by June 30, 2023.

### **HEARINGS AND REQUIRED FINDINGS:**

The recommended actions of the City Council pertain to the Subject Properties owned by: Royal Ridge; Goodell; and Quickie's Car Wash/SJRK; namely APN's 172-420-001, 115-290-034, and 115-

290-035.

California eminent domain law provides that a public entity may not commence eminent domain proceedings until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project.
2. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The real property to be acquired is necessary for the project.
4. The offer of just compensation has been made to the property owner.

The above four required findings are addressed as follows:

### **1. The Public Interest and Necessity Require the Proposed Project**

McKinley Street is one of the principal north/south arterials within the City. It connects the south side of the City with SR-91. The at-grade conflict with the BNSF railroad has significantly impacted traffic circulation in the area. There are approximately 68 trains traversing this intersection on a daily basis, resulting in the crossing gates being down for over 100 minutes per day. Vehicles idling at the grade crossing when gates are down emit pollutants. Train frequency and length will continue to grow. Future projections (Year 2035) expect that train volumes will increase to approximately 137 trains per day, increasing gate-down time to over four hours per day. Nine incidents at this grade crossing have been recorded with the Federal Railroad Administration, including five fatalities.

The Project will require the construction of a grade separation structure, retiring the existing at-grade crossing, and providing a signalized intersection at the proposed relocated junction of McKinley Street and Sampson Avenue. The Project will:

1. Improve safety by separating vehicles, pedestrians, and cyclists from trains at the railroad crossing;
2. Provide unhindered access for emergency vehicles;
3. Reduce traffic congestion;
4. Reduce air and noise pollution;
5. Minimize impacts to adjacent property owners and the surrounding public to the maximum extent possible, both during and after construction of a grade separated intersection at the BNSF crossing; and
6. Reduce impacts to railroad operations.

In 2006 and again in 2008, the Riverside County Transportation Commission developed a grade separation priority funding strategy. The McKinley Street Grade Separation was ranked in the top tier priority group. A March 2012 update maintained McKinley in the top tier priority group. A 2017 companion study noted that this grade separation was the number one grade separation priority for

the City and again maintained the Project in the top tier priority group among all Riverside County grade separation projects.

## **2. The Project is Planned or Located in a Manner That Will be Most Compatible with the Greatest Public Good and the Least Private Injury**

In September 2007, the City Council authorized a Project Study Report ("PSR"), which was finalized in 2011. The PSR considered several alternatives, including an overpass, an underpass, and the raising of the BNSF railroad tracks. Ultimately, a grade separation was determined to be the most practical approach to achieving the goals of the Project, from the standpoint of cost, displacement, operations, and maintenance. With respect to the northeast quadrant of the Project, the PSR considered various alternatives, including multiple alignments of the loop/connector road ("Loop Road") between Sampson Avenue and McKinley Street through Los Arcos Plaza.

The City's consultants at Biggs Cardosa presented several alternative alignments for the Loop Road, which were presented to the City Council on July 18, 2018. Biggs Cardosa prepared a Project Concept Report which was discussed at a November 2018 Study Session, resulting in a decision, at that time, to align the Loop Road through the Shell Gas Station and the strip mall in the middle of Los Arcos Plaza.

Based on concerns about estimated Project costs and other issues, in January 2019, the City Council formed the McKinley Grade Separation Peer Review Ad Hoc Committee. The purpose of the Ad Hoc Committee was to establish a McKinley Grade Separation Peer Review Team to take an independent look at the proposed project, including the financial, technical, and schedule feasibility of a "rail over road" alternative and the options thus far studied for the "road over rail" alternative, and to determine whether a reasonable range of feasible alternatives had been studied. The Peer Review Team prepared an Independent Review and Assessment Report dated March 14, 2019 ("Peer Report"), which was presented at the City Council Meeting on March 20, 2019 and responded to by Biggs Cardosa at a March 27, 2019 City Council Study Session.

One of the recommendations in the Peer Report was to conduct a Value Engineering Workshop, and a Value Engineering Team was then formed in an effort to reduce the overall project cost and impact. The Value Engineering Team discussions resulted in design changes that were presented to the City Council at its August 21, 2019 meeting. One of the substantial changes was the reduction of a six-lane facility to a four-lane facility, reducing overall impacts to the project footprint but still resulting in acquisition needs from the Subject Properties.

While working with Caltrans through the encroachment permit submittal/review process, an e-mail was issued by Caltrans on June 25, 2020 to the City and an inquiring property owner that Caltrans cannot allow a left turn lane from southbound North McKinley Street into the Shell Gas station to remain. The specific reasons cited included: due to the reconfiguration of the intersection of McKinley Street and the Eastbound SR-91 off-ramp, the new loop road will have a large volume of right-turning movements that creates a much more complex traffic pattern at this intersection, affecting the ability of motorists to safely make the left turn into the gas station. Through this, it was determined that leaving the existing left turn pocket in place will create unreasonable conflicts and

delays for motorists. The left turn pocket has been removed from all design alternatives.

Based on the design resulting from these many substantial efforts, acquisition of the Subject Properties that is the subject of this Resolution of Necessity hearing is necessary.

### **3. The Real Property to be Acquired is Necessary for the Proposed Project**

#### **(1) Royal Ridge**

In order to accommodate the widening of McKinley, the grade separation structure, and a loop road through the northeast quadrant of the Project area that is necessary due to the separation of the McKinley/Sampson intersection, the City must acquire a fee simple interest that includes permanent loss of access rights for a portion of the property owned by Royal Ridge consistent with Caltrans requirements for access control, permanent street easement, and temporary construction easement that includes temporary loss of access for up to two weeks due to construction involved with the temporary construction easement, and real property improvements/fixtures and equipment within the limits of acquisition. The construction of the Project in the manner proposed results in the loss of access rights associated with an existing ingress and egress easement associated with the property owned by Royal Ridge. The City is in the process of acquiring a Permanent Easement for ingress/egress purposes through an adjacent property and has included an access easement as part of the offer package to replace ingress/egress rights that will be terminated due to the construction of the loop road. The interests the City must acquire within the property owned by Royal Ridge is described in Exhibit "A," attached to the Resolution of Necessity. City staff, working with City consultants, determined these property interests to be most suitable for the Project.

#### **(2) Goodell**

In order to accommodate the widening of McKinley, the grade separation structure, and the southbound slip ramp from McKinley to Sampson through the northwest quadrant of the Project area that is necessary due to the separation of the McKinley/Sampson intersection, the City must acquire a fee simple interest that includes permanent loss of access rights for a portion of the property owned by Goodell, consistent with Caltrans' requirements for access control, permanent roadway easement, temporary construction easement that includes temporary and permanent loss of parking due to the construction of the project and final geometric conditions, and real property improvements/fixtures and equipment within limits of acquisition. The interests the City must acquire from the property owned by Goodell is described in Exhibit "B," attached to the Resolution of Necessity. City staff, working with City consultants, determined these property interests to be most suitable for the Project.

#### **(3) Quickie's Car Wash/SJRK**

In order to accommodate the widening of McKinley, the grade separation structure, and the southbound slip ramp from McKinley to Sampson through the northwest quadrant of the Project area that is necessary due to the separation of the McKinley/Sampson intersection, the City must acquire a fee simple interest, a permanent roadway easement, temporary construction easement, and real

property improvements/fixtures and equipment within limits of acquisition. The interests the City must acquire within the property owned by Quickie's Car Wash/SJRK is described in Exhibit "C," attached to the Resolution of Necessity. City staff, working with City consultants, determined these property interests to be most suitable for the Project.

#### **4. The Offer of Just Compensation Has Been Made**

The City retained the services of Paragon Partners, Ltd. ("Paragon") in November, 2018 to perform Right-of-Way Appraisal and Acquisition Services for the Project; Valentine Appraisal & Associates ("Valentine") was sub-contracted to conduct appraisals for the Subject Properties. Appraisals were prepared by Valentine and Crockett to establish the fair market value of the property interests the City is seeking to acquire.

In March of this year, and based on the approved Valentine and Crockett appraisals, the City, in accordance with California Government Code Section 7267.2, made offers of just compensation to each of the record owners to purchase interests in the Subject Properties (i.e. the fee, permanent roadway easements, and temporary construction easement interests and real property improvements) and equipment as required by Section 7267.2 of the California Government Code.

Although a negotiated settlement may still be possible for the Subject Properties cited above, it would be appropriate to commence the procedures to acquire the Subject Properties through eminent domain, to ensure that the City has possession of the needed properties and other interests to begin construction of the Project and meet funding and certification deadlines for the Project.

#### **COMMITTEE ACTION:**

Not applicable.

#### **STRATEGIC PLAN:**

Not applicable.

#### **FISCAL IMPACT:**

The Project's current funding includes approximately \$91 million from State Senate Bill 132 distributed by Riverside County Transportation Commission, local Gas Tax measures, Transportation Development Act funds distributed by the State of California, and Measure A funds. All acquisition activities, including eminent domain, have been planned to be included within available project funds.

#### **ENVIRONMENTAL ANALYSIS:**

As a grade separation project, this Project is statutorily exempt under the California Environmental Quality Act.

**PREPARED BY:** TOM KOPER, P.E., ACTING PUBLIC WORKS DIRECTOR

**REVIEWED BY:** DEAN DERLETH, CITY ATTORNEY/LRM DIRECTOR

**REVIEWED BY:** ROGER BRADLEY, ASSISTANT CITY MANAGER

**SUBMITTED BY:** JACOB ELLIS, CITY MANAGER

**Attachments:**

1. Resolution No. 2020-096 (Resolution of Necessity - APN 172-420-001)
2. Resolution No. 2020-097 (Resolution of Necessity - APN 115-290-034)
3. Resolution No. 2020-098 (Resolution of Necessity - APN 115-290-035)