



Legislation Text

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AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION

DATE: 09/16/2020

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

SUBJECT:

Public Hearing for City Council Consideration of Resolutions of Necessity to acquire by eminent domain, permanent roadway easement, permanent and temporary utility easement, permanent non-exclusive ingress/egress easements, and temporary construction easement interests in certain real property identified as Assessor Parcel No.'s 115-300-026, 172-050-001, 172-050-002, 172-050-003, 172-050-005, and 172-050-007, located on North McKinley Street, south of the State Route 91 for the McKinley Street Grade Separation Project, a portion of which is located in the County of Riverside.

**RECOMMENDED ACTION:
That the City Council:**

- a. Conduct a public hearing to consider the adoption of two 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 the 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 Resolution 2020-124, a Resolution of Necessity declaring that the acquisition of a permanent roadway easement, permanent utility easement, and temporary construction easement interests in certain real property identified as Assessor Parcel No. 115-300-026,

located on North McKinley Street, south of the State Route 91, is necessary for the McKinley Street Grade Separation Project.

- d. Adopt Resolution 2020-125, a Resolution of Necessity declaring that the acquisition of a permanent roadway easement, permanent and temporary utility easement, permanent non-exclusive ingress and egress easement, and temporary construction easement interests in certain real property identified as Assessor Parcel No.'s 172-050-001, 172-050-002, 172-050-003, 172-050-005, and 172-050-007, located on North McKinley Street, south of the State Route 91, is necessary 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 Assessor Parcel No.'s (APN's) 115-300-026, 172-050-001, 172-050-002, 172-050-003, 172-050-005, and 172-050-007 is necessary for the construction of the Project. Specifically, the City must acquire permanent roadway easements, permanent and temporary utility 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, permanent loss of access to one driveway to Estelle Street 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, non-exclusive ingress and egress easement for APN 172-050-005 to replace ingress and egress from McKinley Street to APN 172-050-009 (Inland Empire Adult Day Health Care Center), which will be lost due to the construction of the bridge structure for the grade separation. These interests are further identified as shown on the exhibits attached to each respective 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 August 31, 2020, by first class mail in accordance with Section 1245.235 of the California Code of Civil Procedure. The Subject Properties are owned by Ewing Irrigation Products, Inc. ("Ewing"), (APN 115-300-026) and DD&E, LLC ("DD&E") (APN's 172-050-001, 172-050-002, 172-050-003, 172-050-005, and 172-050-007).

DESCRIPTION OF PROPERTY TO BE ACQUIRED:

The parcels affected by the proposed acquisitions are all located south of the State Route 91 (SR-91). The Subject Properties are located at 3940 North McKinley Street (Ewing), and 115-131 North McKinley Street (DD&E). The DD&E parcels are located on the east side of McKinley Street and are bounded by Magnolia Avenue to the south and the BNSF railroad tracks to the north, all of which are consistent with the City's zoning of Support Commercial and Limited Commercial industrial land uses. The affected parcels are within the City limits. Ewing is located on North McKinley Street between

Estelle Street to the south and the BNSF railroad tracks to the north and is consistent with Riverside County zoning of Industrial land uses. The affected parcel is within county 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 Ewing (APN 115-300-026) and DD&E (APN's 172-050-001, 172-050-002, 172-050-003, 172-050-005, and 172-050-007).

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 4 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 of Corona 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 McKinley Street, the PSR considered various alternatives, including widening McKinley to three lanes in each direction.

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 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. Substantial analysis in traffic control and construction staging has been performed by the project team starting in August 2019 to minimize impacts and access restrictions during construction to the Subject Properties.

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) Ewing

In order to accommodate the construction of roadway and retaining wall infrastructure improvements along McKinley Street and relocation of public electric, gas, and water distribution main lines on the Subject Property, the City must acquire permanent roadway easement, permanent utility easement, and temporary property interests on the property owned by Ewing. The required property interests include temporary construction easements for a portion of the Property consistent with Caltrans requirements, as well as real property improvements and furniture, fixtures, and equipment, within the Project limits. The interests the City must acquire within the property owned by Ewing 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. The real property is located within the boundary of the County of Riverside. Authority by the County to the City of Corona to acquire the necessary property interests is established by Resolution No. 2020-019, adopted by the Riverside County Board of Supervisors on January 28, 2020.

(2) DD&E

In order to accommodate the construction of roadway and retaining wall infrastructure improvements along McKinley Street and relocation of gas distribution main line on the Subject Property, the City must acquire permanent roadway easement, permanent utility easement, permanent ingress/egress easement, and temporary property interests on the property owned by DD&E, consistent with Caltrans requirements, as well as real property improvements and furniture, fixtures and equipment, within the Project limits. The interests the City must acquire from the property owned by DD&E 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.

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 to establish the fair market value of the property interests the City is seeking to acquire.

Between April and June of this year, and based on the approved Valentine 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 permanent roadway, ingress/egress, temporary utility easement interests, temporary construction easement) 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. Exhibit A - Resolution No. 2020-124 (Resolution of Necessity - APN 115-300-026)
2. Exhibit B - Resolution No. 2020-125 (Resolution of Necessity - APN's 172-050-001 thru -005, and 172-050-007)