

842



**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Economic Development Agency/Facilities Management and Transportation Department


SUBMITTAL DATE:
May 25, 2011

SUBJECT: Resolution No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project

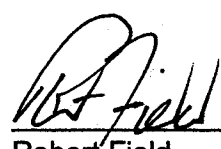
RECOMMENDED MOTION: That the Board of Supervisors approve Resolution No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project.

BACKGROUND: Magnolia Avenue is a four lane road measuring 12 feet in width for each lane. The street currently has a median separating eastbound from westbound traffic.

(Continued)



Juan C. Perez, Director
Transportation Department



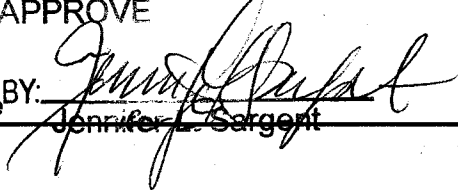
Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 22,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Western Development Impact Fund	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

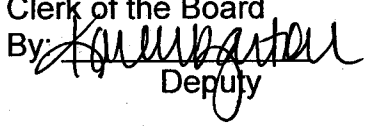


County Executive Office Signature BY: Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: June 14, 2011
xc: EDA, Transp., Auditor

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

FISCAL PROCEDURES APPROVED FORM APPROVED COUNTY COUNSEL
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY: Samuel Wong 5/23/11 BY: ANNA W. WANG
DATE 5/11/11
Departmental Concurrence

Policy ☒ Policy ☒
Consent ☐ Consent ☐
Dept't Recomm.: ☐ Per Exec. Ofc.: ☐

BACKGROUND: (Continued)

The Riverside County Transportation Department proposes to construct two left turn lanes, one for east bound and one for westbound traffic, and a traffic signal at the intersection of Magnolia Avenue and Neece Street. Each turn lane will cross its adjacent median causing a portion of the median to be removed.

The Notice of Exemption was filed and posted on January 30, 2008. The Riverside County Transportation Department staff conducted a review of the above-referenced project and determined that the project qualifies for a Categorical Exemption per the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (c).

The Economic Development Agency (EDA) has presented a written offer to the property owner as required by Government Code Section 7267.2 for Assessor's Parcel Numbers 107-050-001 and 135-021-030. The amount of the offer is consistent with current property value in the Riverside area for this property type (and is based upon a fair market value appraisal report). EDA has also offered to pay the reasonable costs, not to exceed \$5,000, for an independent appraisal obtained by the property owner (as required by Code of Civil Procedure Section 1263.025).

The county has been negotiating with Union Pacific for over a year in good faith to acquire the needed property. There is an urgent need to move forward and obtain possession of the property so a traffic signal at the intersection of Magnolia and Neece can be built, which has been allocated \$150,000 in grant funding. The right-of-way needs to be obtained by June 2011 or the grant funding will likely be lost. Settlement has not been reached with Union Pacific Railroad, although negotiation is still in progress for the necessary right-of-way.

On May 3, 2011, the Board approved Resolution No. 2011-109, Notice of Intention to Adopt a Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project.

The Resolution has been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA: The following summarizes the funding necessary for the acquisition of the property referenced above:

Purchase Price:	\$2,000
Appraisal:	\$0
Preliminary Title Report:	\$0
EDA Real Property Costs:	\$20,000
Total Estimated Acquisition Costs:	\$22,000

EDA has already covered the costs for due diligence (appraisal and preliminary title reports) and will be or has been reimbursed by the Transportation Department. The remaining costs will be paid directly by the Transportation Department. All costs associated with this property acquisition are fully funded in the Transportation Department's budget for FY 2010/11. Thus, no additional net county cost will be incurred as a result of this transaction.

3 Resolution No. 2011-110

4 Authorizing Resolution of Necessity Regarding

5 The Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project

7 **WHEREAS**, the portions of real properties that are the subjects of this
8 Resolution (collectively the "Subject Properties") are located in the unincorporated
9 County of Riverside, State of California; are generally located within an area located in
10 the middle of Magnolia Avenue bounded by Temescal Street on the west and Ellis
11 Street on the east; are legally described and pictorially depicted on the documents
12 attached hereto as Exhibit "A" and Exhibit "B" (and incorporated herein by this
13 reference); are referred to on attached Exhibit "A" and Exhibit "B" as Assessor's Parcel
14 Numbers 107-050-001 and 135-021-030;

15 **WHEREAS**, each one of the Subject Properties is listed below in Table One that
16 includes the relevant Subject Property within its boundaries, and whereas each one of
17 those larger real properties is listed below in Table One by its Riverside County
18 Assessor's Parcel Number:

TABLE ONE	
Riverside County Assessor's Parcel Numbers Of the Larger Real Properties	
107-050-001	
135-021-030	

26 **WHEREAS**, the proposed project that is the subject of this Notice (the
27 "Proposed Project") is one to construct two left turn lanes, one for east bound and one
28

FORM APPROVED COUNTY COUNSEL
BY: ANNA W. WANG
DATE: 5/16/11

1 for westbound traffic, and a traffic signal at the intersection of Magnolia Avenue and
2 Neece Street, and to otherwise improve the public road system (including, but not
3 limited to, the use of the Subject Properties for public road purposes, for utility
4 purposes, for drainage purposes, and for other uses incidental to the Proposed Project
5 and required by the Proposed Project);

6 **WHEREAS**, the interests in property that are the subjects of this Notice
7 (collectively the "Subject Property Interests") are fee simple interests;

8 **WHEREAS**, the statutes that authorize the County of Riverside to acquire the
9 Subject Property Interests by eminent domain include Article 1, Section 19 of the
10 California Constitution; Section 25350.5 of the Government Code; Section 760 of the
11 Streets and Highways Code; and Sections 1240.010, 1240.020, 1240.030, 1240.040,
12 1240.110, 1240.410, 1240.510, and 1240.610 of the Code of Civil Procedure.

13 **NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Board of
14 Supervisors of Riverside County, State of California, not less than four/fifths of all
15 members concurring, in regular session assembled on June 7, 2011, that this Board
16 finds and determines each of the following:

17 1. Notice of the Board's intention to adopt this resolution of necessity was
18 duly given as required by Section 1245.235 of the Code of Civil Procedure and, on the
19 date and at the time and place fixed for hearing, this Board did hear and consider all of
20 the evidence presented.

21 2. That the public interest and necessity require the Proposed Project;

22 3. That the Proposed Project is planned and located in the manner that will
23 be most compatible with the greatest public good and the least private injury;

24 4. That the Subject Property Interests are necessary for the Proposed
25 Project;

26 5. That the offer required by Section 7267.2 of the Government Code has
27 been made to the owners of record of the Subject Properties;

28 ///

1 6. That, to the extent that the Subject Properties are already devoted to a
2 public use, the use of the Proposed Project is a compatible use that will not
3 unreasonably interfere with or impair the continuance of the public use as it presently
4 exists or may reasonably be expected to exist in the future (California Code of Civil
5 Procedure Section 1240.510) or the use of the Proposed Project is a more necessary
6 public use than is the presently existing public use (California Code of Civil Procedure
7 Section 1240.610);

8 7. That the Subject Property Interests are needed for road purposes; and

9 8. That acquisition of the Subject Property Interests will promote the
10 interests of the County of Riverside.

11 **BE IT FURTHER RESOLVED AND ORDERED** that the County Counsel of the
12 County of Riverside is hereby authorized and empowered:

13 1. To acquire (in the name of the County) the Subject Property Interests by
14 condemnation in accordance with the Constitution and laws relating to eminent
15 domain.

16 2. To prepare and prosecute in the name of the County such proceedings in
17 the proper court having jurisdiction thereof as are necessary for such acquisition.

18 3. To make application to the Court for an order to deposit the probable
19 amount of compensation out of proper funds under the control of the County into the
20 County Treasury and for an order permitting the County to take prejudgment
21 possession and use the Subject Property Interests for the purpose of constructing the
22 Proposed Project.

23 4. To compromise and settle such proceedings if such settlement can be
24 reached and, in that event, to take all necessary actions to complete the acquisition,
25 including stipulations as to judgment and other matters and the causing of all payments
26 to be made.

27 ROLL CALL:

28 Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley

 Nays: None

 Absent: None

The foregoing is certified to be a true copy of a
resolution duly adopted by said Board of Super-
visors on the date therein set forth.

KECIA HARPER-IHEM Clerk of said Board

By _____ Deputy

Updated 08/2010

EXHIBIT "A"

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Riverside, and described as follows:

That portion of the land conveyed to the Pacific Electric Railway Company by deed recorded November 5, 1913 in Book 385, Page 232 of Deeds, records of Riverside County, as shown on a map of Riverside Land and Irrigation Company lands on file in Book 1, Page 70 of Maps, records of San Bernardino County, lying within the boundaries of Riverside County Assessor's Parcel Numbers 135-021-030 and 107-050-001, as shown by the maps of said Assessor.

Note: The above legal description is provided as an accommodation only and is used solely for the purpose of facilitating the issuance of this title report. It is not to be sued in any policy of title insurance.

(End of Legal Description)

EXHIBIT "B"

Page 1 of 2

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

AUG 04 2010

SEC. 28 29 T3S R6W
CITY OF CORONA

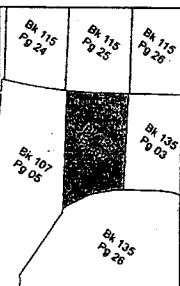
TRA 059-004
059-008

135-02
6-47-1



ASSESSOR'S MAP BK135 PG.02
Riverside County, Calif.

Ordinance



Map Reference
MB 1188 RIVERSIDE VALLEY HOME GARDENS

JUNE 2010

Date	Old No.	New No.
6/1/2003	021-13	31
6/1/2003	021-14	32
11/1/2003	13-4	021-33
11/1/2003	5-7-27-28	021-34
7/14/2005	021-34	35-36
7/14/2005	021-35	36-37
7/15/2005	021-37	38-39
7/18/2005	022-1	28
12/14/2005	022-4	30-31
9/9/2008	021-8	40-41
9/9/2008	021-9	41-42
6/22/2010	022-27	31-32

Legend

- Lot Lines
- Right-of-Way
- Old Lot Lines
- Reference R.O.W.
- Other Easements
- Lease Area
- Subdivision Tie Mark

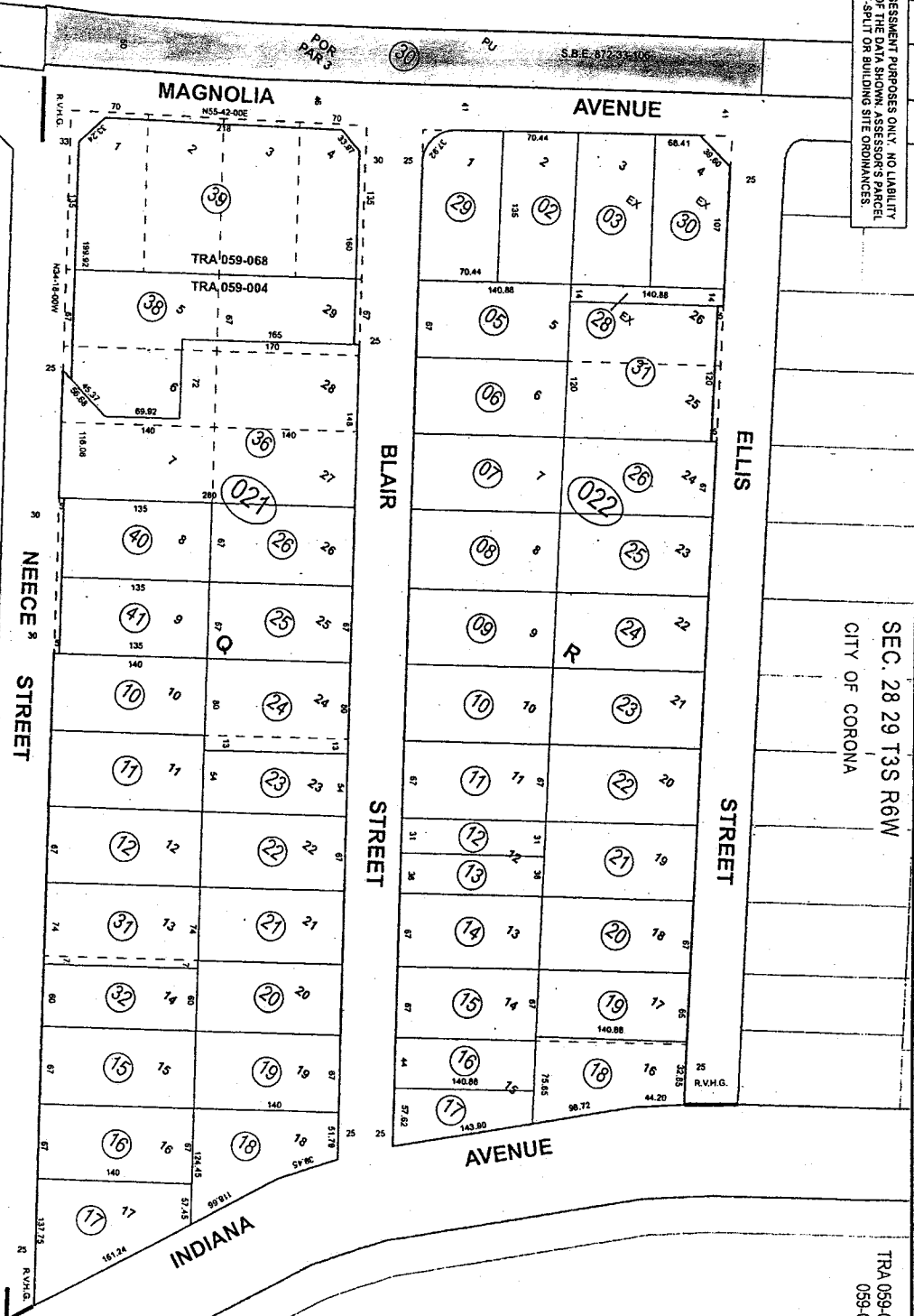
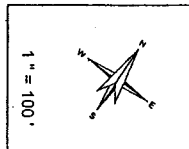


EXHIBIT "B"

Page 2 of 2

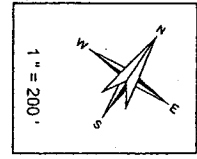
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

SEC 29, 32, 33 T3SR6W
CITY OF CORONA

TRA 004-002
004-013
004-014
004-015
004-016
004-053
004-076

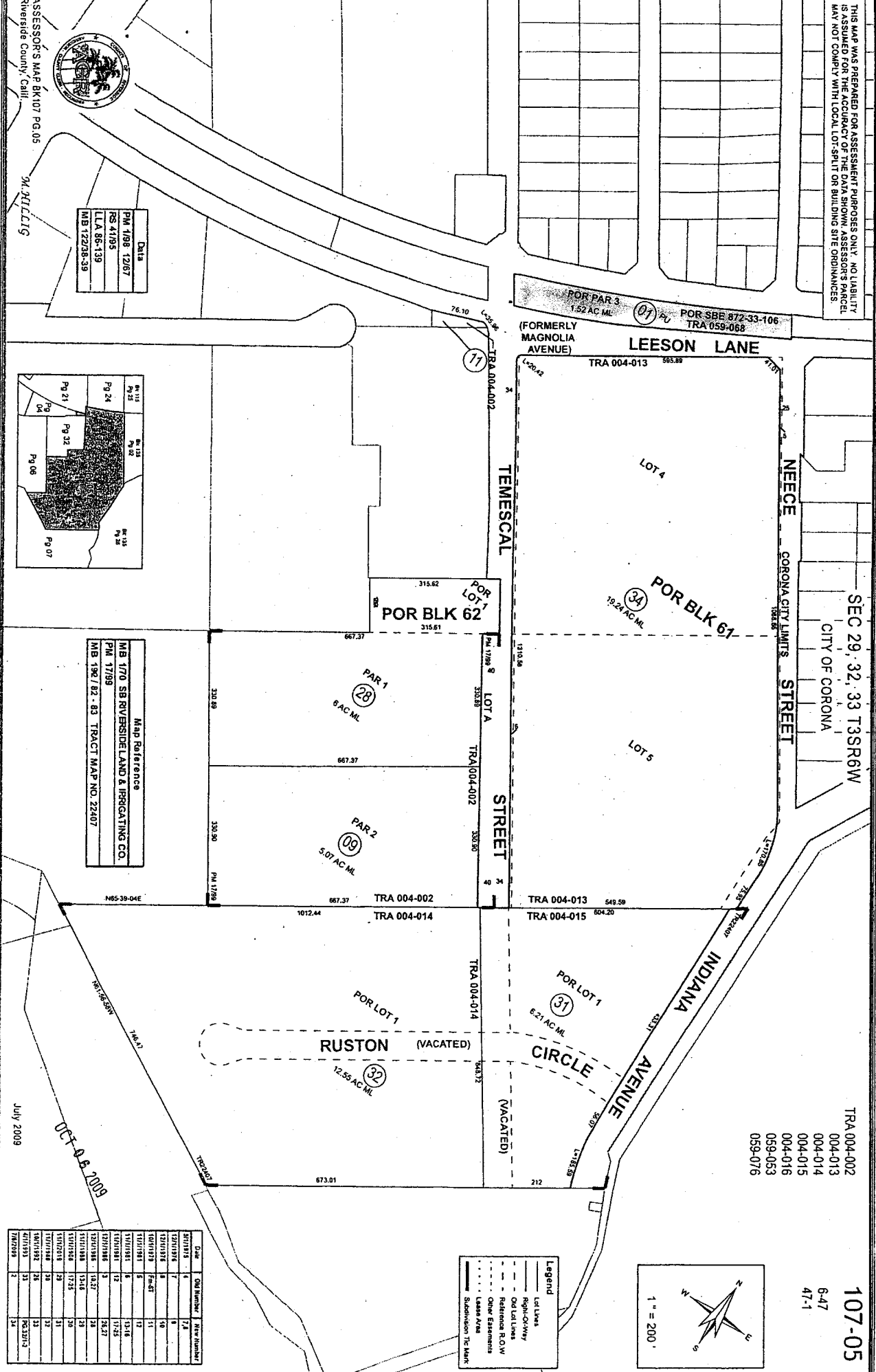
107-05

6-47
47-1



Legend

- Lot Lines
- Right-of-Way
- Old Lot Lines
- Reference R.O.W
- Other Easements
- Lease Area
- Subdivision To Be Made



Date	Old Number	New Number
07/17/13	4	7, 8
12/01/13	7	9
12/01/13	8	10
12/01/13	11	11
12/01/13	12	12
12/01/13	13	13
12/01/13	14	14
12/01/13	15	15
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12/01/13	94	94
12/01/13	95	95
12/01/13	96	96
12/01/13	97	97
12/01/13	98	98
12/01/13	99	99
12/01/13	100	100

ASSESSOR'S MAP B/L07 Pg.05
Riverside County, Calif.



July 2009

OCT 06 2009

X

SPEAKER'S NAME: MICHAEL WALLESTEIN

City: Los Angeles Zip: 90016

Phone #: 213-687-2110

Date: 6/14/11 Agenda # 9.6 - NEECE ST
TRAFFIC
SIGNAGE

PLEASE STATE YOUR POSITION BELOW:

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 Support X **Oppose** **Neutral**

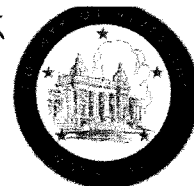
Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

_____ Support _____ Oppose _____ Neutral

I give my 3 minutes to:_____

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

468A



FROM: Economic Development Agency /Facilities Management and Transportation Department

SUBMITTAL DATE:
April 21, 2011

SUBJECT:Resolution No. 2011-109, Notice of Intention to Adopt a Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Resolution No. 2011-109, Notice of Intention to Adopt a Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project;
2. Set a public hearing on June 7, 2011, for Resolution No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project; and,
3. Direct the Clerk of the Board to send the required notice to the property owners as required per Section 1245.235 of the Code of Civil Procedure.

BACKGROUND: (Commences on Page 2)



Juan C. Perez, Director
Transportation Department



Robert Field
Assistant County Executive Officer/EDA

**FINANCIAL
DATA**

Current F.Y. Total Cost:	\$ 22,000	In Current Year Budget:	Yes
Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Western DIF

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

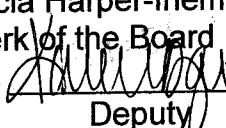
C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY 
Jennifer Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and is set for hearing on Tuesday, June 7, 2011 at 9:30 a.m.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: May 3, 2011

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: N/A

District: 2

Agenda Number:

9.6

FORM APPROVED COUNTY COUNSEL
DATE 4/21/11
BY: ANNA W. WANG
FISCAL PROCEDURES APPROVED
PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY:  SAMUEL WONG
Departmental Concurrence

Dep't Recomm.: ☐ Consent
Per Exec. Ofc.: ☐ Consent
Policy ☒
Policy ☒

BACKGROUND:

Magnolia Avenue is a four lane road measuring 12 feet in width for each lane. The street currently has a median separating eastbound from westbound traffic. The Riverside County Transportation Department proposes to construct two left turn lanes, one for east bound and one for westbound traffic, and a traffic signal at the intersection of Magnolia Avenue and Neece Street. Each turn lane will cross its adjacent median causing a portion of the median to be removed.

The Notice of Exemption was filed and posted on January 30, 2008. The Riverside County Transportation Department staff conducted a review of the above-referenced project and determined that the project qualifies for a Categorical Exemption per the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (c).

The Economic Development Agency (EDA) has presented a written offer to the property owner as required by Government Code Section 7267.2 for Assessor's Parcel Numbers 107-050-001 and 135-021-030. The amount of the offer is consistent with current property value in the Riverside area for this property type (and is based upon a fair market value appraisal report). EDA has also offered to pay the reasonable costs, not to exceed \$5,000, for an independent appraisal obtained by the property owner (as required by Code of Civil Procedure Section 1263.025).

The County has been negotiating with Union Pacific for over a year in good faith to acquire the needed property. We are at a point that there is an urgent need to move forward and obtain possession of the property so that we can build a traffic signal at the intersection of Magnolia and Neece, which has been allocated \$150,000 in grant funding. The right-of-way needs to be obtained by June 2011 or the grant funding will likely be lost. Settlement has not been reached with Union Pacific Railroad, although negotiation is still in progress for the necessary right-of-way.

The subject Notice of Intention would schedule a hearing on June 7, 2011 for proposed Resolution No. 2011-110 (Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal. The scheduling of a Resolution of Necessity hearing on June 7, 2011 is needed in order to permit the Magnolia and Neece Traffic Signal Project to move forward.

The County is authorized to acquire property by eminent domain pursuant to various statutes including Government Code, §25350.5.

This Resolution has been reviewed and approved by County Counsel as to legal form.

FINANCIAL DATA: (Commences on Page 3)

FINANCIAL DATA:

The following summarizes the funding necessary for the acquisition of the property referenced above:

Purchase Price:	\$2,000
Appraisal:	\$0
Preliminary Title Report:	\$0
EDA Real Property Costs:	\$20,000
Total Estimated Acquisition Costs:	\$22,000

EDA has already covered the costs for due diligence (appraisal and preliminary title reports) and will be or has been reimbursed by the Transportation Department. The remaining costs will be paid directly by the Transportation Department. All costs associated with this property acquisition are fully funded in the Transportation Department's budget for FY 2010/11. Thus, no additional net county cost will be incurred as a result of this transaction.

UNITED STATES POSTAL SERVICE ²/₀₁ C4

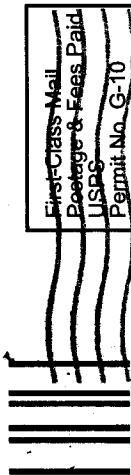
June 7, 2011

Res. 2011-109
Magistrate Ave.

BOARD
1147

RIVERSIDE, CA. 92502-1147

ATTN: Cecilia Gil

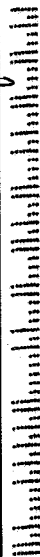


address, and ZIP+4 in this box •

2011 MAY -9 PM 3:52

RECEIVED RIVERSIDE COUNTY
CLERK/BOARD OF SUPERVISORS

3.22 of 05-03-11



1 Board of Supervisors

County of Riverside

2
3 Resolution No. 2011-109

4 Notice of Intention to Adopt a Resolution of Necessity Regarding
5 the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project
6

7 **WHEREAS**, the portions of real properties that are the subjects of this Notice
8 (collectively the "Subject Properties") are located in the unincorporated County of
9 Riverside, State of California; are generally located within an area in the middle of
10 Magnolia Avenue bounded by Temescal Street on the west and Ellis Street on the
11 east; are legally described and pictorially depicted on the documents attached hereto
12 as Exhibit "A" and Exhibit "B" (and incorporated herein by this reference); are referred
13 to on attached Exhibit "A" and Exhibit "B" as Assessor's Parcel Numbers 107-050-001
14 and 135-021-030;

15 **WHEREAS**, each one of the Subject Properties is listed below in Table One that
16 includes the relevant Subject Property within its boundaries, and whereas each one of
17 those larger real properties is listed below in Table One by its Riverside County
18 Assessor's Parcel Number:

19
20
21
22
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24
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TABLE ONE
Riverside County Assessor's Parcel Nur
Of the Larger Real Properties
107-050-001
135-021-030

9.6 6/7/11

79

26
27 **WHEREAS**, the proposed project that is the subject of this Notice (the
28 "Proposed Project") is one to construct two left turn lanes, one for east bound and one

FORM APPROVED COUNTY COUNSEL
BY: ANN W. WANG
DATE: 6/21/11

1 for westbound traffic, and a traffic signal at the intersection of Magnolia Avenue and
2 Neece Street, and to otherwise improve the public road system (including, but not
3 limited to, the use of the Subject Properties for public road purposes, for utility
4 purposes, for drainage purposes, and for other uses incidental to the Proposed Project
5 and required by the Proposed Project);

6
7 **WHEREAS**, the interests in property that are the subjects of this Notice
8 (collectively the "Subject Property Interests") are fee simple interests;

9 **WHEREAS**, the statutes that authorize the County of Riverside to acquire the
10 Subject Property Interests by eminent domain include Article 1, Section 19 of the
11 California Constitution; Section 25350.5 of the Government Code; Section 760 of the
12 Streets and Highways Code; and Sections 1240.010, 1240.020, 1240.030, 1240.040,
13 1240.110, 1240.410, 1240.510, and 1240.610 of the Code of Civil Procedure.

14 Now, therefore, **BE IT RESOLVED AND ORDERED** as follows by the Board of
15 Supervisors of Riverside County, State of California, in regular session assembled on
16 May 3, 2011.

17 1. YOU ARE HEREBY NOTIFIED that this Board (at its public meeting on
18 June 7, 2011 at 9:30 a.m. in the meeting room of the Board of Supervisors located on
19 the 1st floor of the County Administrative Center, 4080 Lemon Street, Riverside,
20 California) may decide to adopt a Resolution of Necessity that would authorize the
21 County of Riverside to acquire the Subject Property Interests by eminent domain (and
22 that would find and determine each of the following matters):

23 (a) That the public interest and necessity require the Proposed
24 Project;

25 (b) That the Proposed Project is planned or located in the manner that
26 will be most compatible with the greatest public good and the least private injury;

27 (c) That the Subject Property Interests are necessary for the
28 Proposed Project;

1 (d) That the offer required by Section 7267.2 of the Government Code
2 has been made to the owner of record of the Subject Properties;

3 (e) That, to the extent that the Subject Properties are already devoted
4 to a public use, the use of the Proposed Project is a compatible use that will not
5 unreasonably interfere with or impair the continuance of the public use as it presently
6 exists or may reasonably be expected to exist in the future (California Code of Civil
7 Procedure Section 1240.510) or the use of the Proposed Project is a more necessary
8 public use than is the presently existing public use (California Code of Civil Procedure
9 Section 1240.610);

10 (f) That the Subject Property Interests are needed for road purposes;
11 and

12 (g) That acquisition of the Subject Property Interests will promote the
13 interests of the County of Riverside.

14 2. If (within 15 days from the mailing of this Notice) you file a written request
15 to appear at the public meeting and be heard on the matters described above in 1(a),
16 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), (or any one or more of them), you will have a right to
17 appear at that meeting and be heard on those matters.

18 3. All such written requests to appear and be heard must be filed with the
19 Clerk of the Riverside County Board of Supervisors.

20 4. Your written request to appear and be heard must be filed within the
21 fifteen (15) day time period. Failure to file such a timely written request will result in a
22 waiver of your right to appear and be heard.

23 5. Questions regarding the amount of compensation to be paid will not be a
24 part of the public meeting and the Board will not consider such questions in
25 determining whether a Resolution of Necessity should be adopted.

26 6. The Clerk of the Board of Supervisors shall cause a copy of this Notice to
27 be sent by first-class mail to each person whose property may be acquired by eminent
28

1 domain and whose name and address appears on the last equalized county
2 assessment roll (including the roll of state-assessed property).

3 ///

4 ///

5 SV:ad/042011/281TR/14.065 S:\Real Property\TYPING\Docs-14.000 to 14.499\14.065.doc

6
7 ROLL CALL:

8 Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley
9 Nays: None
Absent: None

10
11 The foregoing is certified to be a true copy of a resolution duly
12 adopted by said Board of Supervisors on the date therein set forth.

13 KECIA HARPER-IHEM, Clerk of said Board

14 By: 

15 Deputy

EXHIBIT "A"

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Riverside, and described as follows:

That portion of the land conveyed to the Pacific Electric Railway Company by deed recorded November 5, 1913 in Book 385, Page 232 of Deeds, records of Riverside County, as shown on a map of Riverside Land and Irrigation Company lands on file in Book 1, Page 70 of Maps, records of San Bernardino County, lying within the boundaries of Riverside County Assessor's Parcel Numbers 135-021-030 and 107-050-001, as shown by the maps of said Assessor.

Note: The above legal description is provided as an accommodation only and is used solely for the purpose of facilitating the issuance of this title report. It is not to be sued in any policy of title insurance.

(End of Legal Description)

EXHIBIT "B"

Page 1 of 2

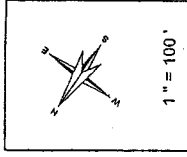
135-02
6-47-1

TRA 059-004
059-068

SEC. 28 29 T3S R6W
CITY OF CORONA

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY
IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL
MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

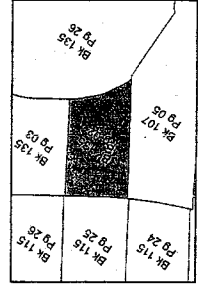
AUG 04 2010



Legend	
—	Lot Line
- - -	Right-Of-Way
- - -	Old Lot Lines
- - -	Reference R.O.W.
- - -	Other Easements
- - -	Lease Area
- - -	Subdivision Tr. Mark

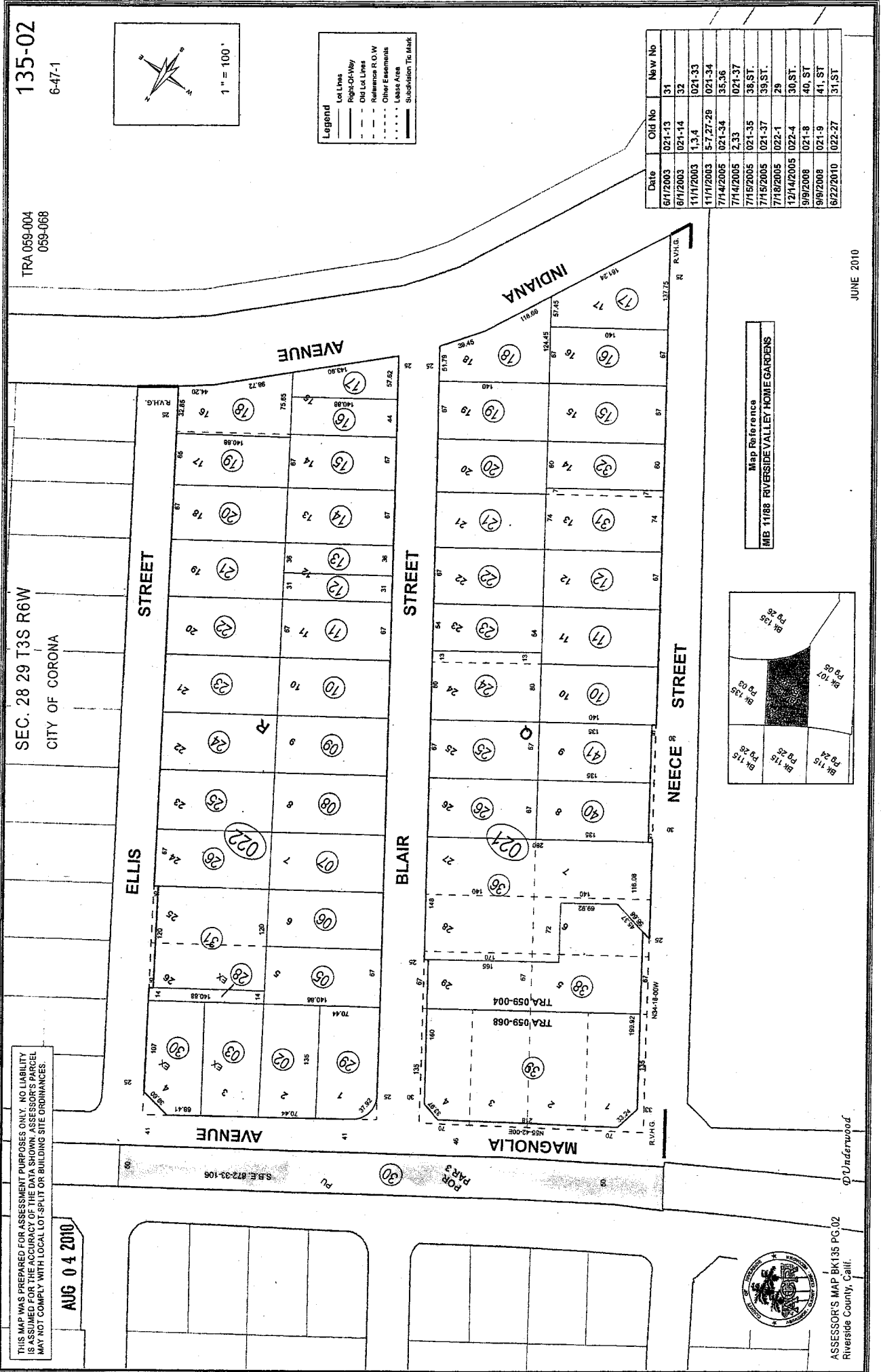
Date	Old No	New No
6/1/2003	021-13	31
6/1/2003	021-14	32
11/1/2003	1,3,4	021-33
11/1/2003	5-7,27-29	021-34
7/14/2005	021-34	35,36
7/14/2005	2,33	021-37
7/15/2005	021-35	38,ST.
7/15/2005	021-37	39,ST.
7/15/2005	022-1	29
12/14/2005	022-4	30,ST.
9/9/2008	021-8	40,ST.
9/9/2008	021-9	41,ST.
6/22/2010	022-27	31,ST.

Map Reference
MB 11788 RIVERSIDE VALLEY HOME GARDENS



JUNE 2010

ASSESSOR'S MAP BK135 PC.02
Riverside County, Calif.



Page 2 of 2

July 2009



OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
Office: (951) 955-1060 FAX: (951) 955-1071

KECIA HARPER-IHEM
Clerk of the Board

KIMBERLY A. RECTOR
Assistant Clerk of the Board

May 5, 2011

Don Caldwell
Director of Special Properties
Union Pacific Railroad Company
9431 Haven Avenue, Suite 203
Rancho Cucamonga, California 91730

Dear Property Owner:

The law provides procedures for public agencies to acquire private property for public use. It requires that every agency which intends to condemn property notify the owners of its intention to condemn. Article 1, Section 19 of the California Constitution; Section 25350.5 of the Government Code; Section 760 of the Streets and Highways Code; and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.110, 1240.410, 1240.510, and 1240.610 of the California Code of Civil Procedures (CCP) provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following 7 conditions are established:

- (A) That the public interest and necessity require the Proposed Project;
- (B) That the Proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (C) That the Subject Property Interests are necessary for the Proposed Project;
- (D) That the offer required by Section 7267.2 of the Government Code has been made to the owner of record of the Subject Properties;
- (E) That, to the extent that the Subject Properties are already devoted to a public use, the use of the Proposed Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510) or the use of the Proposed Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610);
- (F) That the Subject Property Interests are needed for road purposes; and
- (G) That acquisition of the Subject Property Interests will promote the interests of the County of Riverside.

You are hereby notified that the Board of Supervisors ("Board") of Riverside County, State of California at its public meeting to be held on **June 7, 2011 at 9:30 a.m.** in the meeting room of the Board of Supervisors located on the 1st floor of the County Administrative Center, 4080 Lemon Street, Riverside, California, will be asked to decide if the above conditions have been met concerning your property and, if so, to adopt the Resolution of Necessity ("Resolution"). Questions regarding the amount of compensation to be paid or the value of the property to be acquired are not part of this

proceeding and the Board will not consider such in determining whether a Resolution should be adopted.

The Board's adoption of the Resolution authorized the County to acquire the property by eminent domain. Within six months of the adopted Resolution, the County will prepare and file a complaint in Superior Court commencing the eminent domain proceeding. All issues related to the compensation to be awarded for the acquisition of your property will be resolved in this court proceeding. Enclosed is a copy of Resolution No. 2011-109, Notice of Intention to Adopt a Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project which includes the legal description and plat map of the required property is attached to this Notice.

The law provides you an opportunity to appear before the Board and raise questions concerning only the conditions cited above. If you file a written request to appear (within 15 days from the mailing of this Notice), you are entitled to appear and object to the adoption of the Resolution.

Your written request to appear should include a statement indicating which of the conditions listed in the first paragraph above you contend have not been met. By designating which of the conditions form the basis of your challenge and explaining why you believe they have not been met, you will enable the Board to authorize a full and expeditious review of the project's effect on your property. The Transportation Department and Real Estate Division will conduct the review on behalf of the Board and ask for your participation. Based on this review, the Transportation Department and Real Estate Division will then prepare a report to be presented to the Board at the meeting at which you intend to appear.

Your written request to appear must actually be on file with the Clerk of the Riverside County Board of Supervisors. Please mail or personally deliver your request to:

Ms. Kecia Harper-Ihem
Clerk to the Board of Supervisors
County Administrative Center
PO Box 1147
4080 Lemon Street, 1st Floor
Riverside, California 92502-1147

Failure to file such a timely written response will result in a waiver of your right to appear and be heard.

If you have any questions, please call Stephi Villanueva, Supervising Real Property Agent for the Economic Development Agency/Facilities Management Real Estate Division at (951) 955-9277. Thank you.

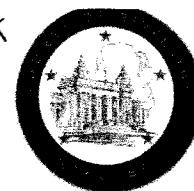
Sincerely,



Cecilia Gil, Board Assistant to:
KECIA HARPER-IHEM
Clerk of the Board

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

468A



FROM: Economic Development Agency /Facilities Management and
Transportation Department

SUBMITTAL DATE:
April 21, 2011

SUBJECT:Resolution No. 2011-109, Notice of Intention to Adopt a Resolution of Necessity Regarding the
Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Resolution No. 2011-109, Notice of Intention to Adopt a Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project;
2. Set a public hearing on June 7, 2011, for Resolution No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project; and,
3. Direct the Clerk of the Board to send the required notice to the property owners as required per Section 1245.235 of the Code of Civil Procedure.

BACKGROUND: (Commences on Page 2)

Juan C. Perez, Director
Transportation Department

Robert Field
Assistant County Executive Officer/EDA

**FINANCIAL
DATA**

Current F.Y. Total Cost:	\$ 22,000	In Current Year Budget:	Yes
Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Western DIF

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY: Jennifer Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and is set for hearing on Tuesday, June 7, 2011 at 9:30 a.m.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: May 3, 2011
xc: EDA, Transp., Auditor, COB

Kecia Harper-Ihem
Clerk of the Board
By: Deputy

Prev. Agn. Ref.: N/A

District: 2

Agenda Number:

3.22

2
3 Resolution No. 2011-1094 Notice of Intention to Adopt a Resolution of Necessity Regarding
5 the Project to Improve Magnolia Avenue and Neece Street Traffic Signal Project
67 **WHEREAS**, the portions of real properties that are the subjects of this Notice
8 (collectively the "Subject Properties") are located in the unincorporated County of
9 Riverside, State of California; are generally located within an area in the middle of
10 Magnolia Avenue bounded by Temescal Street on the west and Ellis Street on the
11 east; are legally described and pictorially depicted on the documents attached hereto
12 as Exhibit "A" and Exhibit "B" (and incorporated herein by this reference); are referred
13 to on attached Exhibit "A" and Exhibit "B" as Assessor's Parcel Numbers 107-050-001
14 and 135-021-030;15 **WHEREAS**, each one of the Subject Properties is listed below in Table One that
16 includes the relevant Subject Property within its boundaries, and whereas each one of
17 those larger real properties is listed below in Table One by its Riverside County
18 Assessor's Parcel Number:19
20
21
22
23
24
25
26
27
28

TABLE ONE	
Riverside County Assessor's Parcel Numbers Of the Larger Real Properties	
107-050-001	
135-021-030	

WHEREAS, the proposed project that is the subject of this Notice (the
"Proposed Project") is one to construct two left turn lanes, one for east bound and oneFORM APPROVED COUNTY COUNSEL
BY: ANNA W. WANG
DATE 4/21/11

1 for westbound traffic, and a traffic signal at the intersection of Magnolia Avenue and
2 Neece Street, and to otherwise improve the public road system (including, but not
3 limited to, the use of the Subject Properties for public road purposes, for utility
4 purposes, for drainage purposes, and for other uses incidental to the Proposed Project
5 and required by the Proposed Project);

6
7 **WHEREAS**, the interests in property that are the subjects of this Notice
8 (collectively the "Subject Property Interests") are fee simple interests;

9 **WHEREAS**, the statutes that authorize the County of Riverside to acquire the
10 Subject Property Interests by eminent domain include Article 1, Section 19 of the
11 California Constitution; Section 25350.5 of the Government Code; Section 760 of the
12 Streets and Highways Code; and Sections 1240.010, 1240.020, 1240.030, 1240.040,
13 1240.110, 1240.410, 1240.510, and 1240.610 of the Code of Civil Procedure.

14 Now, therefore, **BE IT RESOLVED AND ORDERED** as follows by the Board of
15 Supervisors of Riverside County, State of California, in regular session assembled on
16 May 3, 2011.

17 1. YOU ARE HEREBY NOTIFIED that this Board (at its public meeting on
18 June 7, 2011 at 9:30 a.m. in the meeting room of the Board of Supervisors located on
19 the 1st floor of the County Administrative Center, 4080 Lemon Street, Riverside,
20 California) may decide to adopt a Resolution of Necessity that would authorize the
21 County of Riverside to acquire the Subject Property Interests by eminent domain (and
22 that would find and determine each of the following matters):

23 (a) That the public interest and necessity require the Proposed
24 Project;

25 (b) That the Proposed Project is planned or located in the manner that
26 will be most compatible with the greatest public good and the least private injury;

27 (c) That the Subject Property Interests are necessary for the
28 Proposed Project;

1 (d) That the offer required by Section 7267.2 of the Government Code
2 has been made to the owner of record of the Subject Properties;

3 (e) That, to the extent that the Subject Properties are already devoted
4 to a public use, the use of the Proposed Project is a compatible use that will not
5 unreasonably interfere with or impair the continuance of the public use as it presently
6 exists or may reasonably be expected to exist in the future (California Code of Civil
7 Procedure Section 1240.510) or the use of the Proposed Project is a more necessary
8 public use than is the presently existing public use (California Code of Civil Procedure
9 Section 1240.610);

10 (f) That the Subject Property Interests are needed for road purposes;
11 and

12 (g) That acquisition of the Subject Property Interests will promote the
13 interests of the County of Riverside.

14 2. If (within 15 days from the mailing of this Notice) you file a written request
15 to appear at the public meeting and be heard on the matters described above in 1(a),
16 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), (or any one or more of them), you will have a right to
17 appear at that meeting and be heard on those matters.

18 3. All such written requests to appear and be heard must be filed with the
19 Clerk of the Riverside County Board of Supervisors.

20 4. Your written request to appear and be heard must be filed within the
21 fifteen (15) day time period. Failure to file such a timely written request will result in a
22 waiver of your right to appear and be heard.

23 5. Questions regarding the amount of compensation to be paid will not be a
24 part of the public meeting and the Board will not consider such questions in
25 determining whether a Resolution of Necessity should be adopted.

26 6. The Clerk of the Board of Supervisors shall cause a copy of this Notice to
27 be sent by first-class mail to each person whose property may be acquired by eminent
28

1 domain and whose name and address appears on the last equalized county
2 assessment roll (including the roll of state-assessed property).

3 ///

4 ///

5 SV:ad/042011/281TR/14.065 S:\Real Property\TYPING\Docs-14.000 to 14.499\14.065.doc

6
7 ROLL CALL:

8 Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley

9 Nays: None

10 Absent: None

11 The foregoing is certified to be a true copy of a resolution duly
12 adopted by said Board of Supervisors on the date therein set forth.

13 KECIA HARPER-IHEM, Clerk of said Board

14 By: Cecilia Gil

15 Deputy

EXHIBIT "A"

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Riverside, and described as follows:

That portion of the land conveyed to the Pacific Electric Railway Company by deed recorded November 5, 1913 in Book 385, Page 232 of Deeds, records of Riverside County, as shown on a map of Riverside Land and Irrigation Company lands on file in Book 1, Page 70 of Maps, records of San Bernardino County, lying within the boundaries of Riverside County Assessor's Parcel Numbers 135-021-030 and 107-050-001, as shown by the maps of said Assessor.

Note: The above legal description is provided as an accommodation only and is used solely for the purpose of facilitating the issuance of this title report. It is not to be sued in any policy of title insurance.

(End of Legal Description)

EXHIBIT "B"

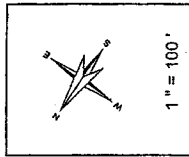
Page 1 of 2

TRA 059-004
059-068
135-02
6-47-1

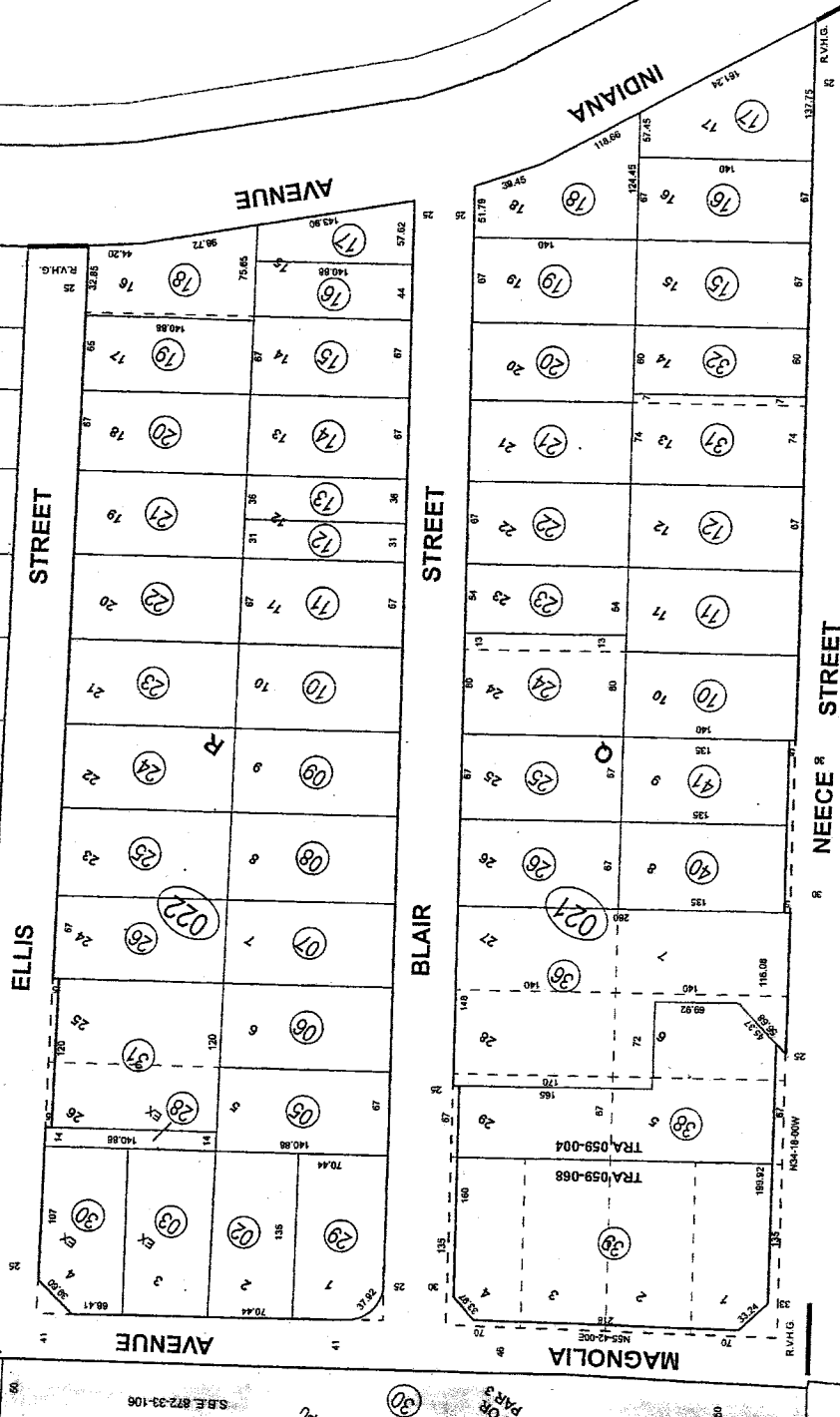
SEC. 28 29 T3S R6W
CITY OF CORONA

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

AUG 04 2010

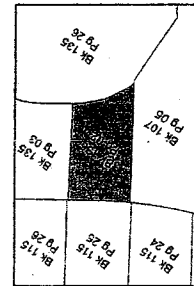


Legend	
—	Lot Lines
- - -	Right-Of-Way
- - -	Old Lot Lines
- - -	Reference R.O.W.
- - -	Other Easements
.....	Locust Area
—	Subdivision Tie Mark



Date	Old No	New No
6/1/2003	021-13	31
6/1/2003	021-14	32
11/1/2003	1,3,4	021-33
11/1/2003	5-7,27-29	021-34
7/14/2005	021-34	35,36
7/14/2005	2,33	021-37
7/16/2005	021-35	38,ST.
7/16/2005	021-37	39,ST.
7/16/2005	022-1	29
12/14/2005	022-4	30,ST.
9/9/2008	021-8	40,ST.
9/9/2008	021-9	41,ST.
6/22/2010	022-27	31,ST.

Map Reference
MIB 11/88 RIVERSIDE VALLEY HOME GARDENS



JUNE 2010

ASSESSOR'S MAP BK135 PG.02
Riverside County, Calif.



Page 2 of 2

July 2009

DECLARATION OF MAILING OF NOTICE OF INTENTION TO ADOPT A RESOLUTION
OF NECESSITY REGARDING THE PROJECT TO IMPROVE MAGNOLIA AVENUE
AND NEECE STREET TRAFFIC SIGNAL

I, Cecilia Gil, (Name) Board Assistant to the Clerk of the Board, (Title) hereby declares as follows:

That on May 5, 2011, I served by mail (1) a copy of the Notice of Intention to Adopt a Resolution of Necessity Regarding the Project to Improve Magnolia Avenue and Neece Street Traffic Signal; (2) a copy of the plat maps and legal descriptions, copies of which are on file in the Office of the Clerk of the Board of Supervisors; (3) a copy of the Minute Order; and, (3) the original of the letter dated May 5, 2011 from the Clerk of the Board of Supervisors to the following address by depositing said letters enclosed in a sealed envelope, in the United States Postal Service mailbox at the City of Riverside, California:

Don Caldwell
Director of Special Properties
Union Pacific Railroad Company
9431 Haven Avenue, Suite 203
Rancho Cucamonga, California 91730

Certified Mail #: 7002 1000 0005 0460 0038

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 5th day of May 2011, at Riverside County, California.



Cecilia Gil, Board Assistant

Harper-Ihem, Kecia

From: Grant, Diana [Dgrant@rceo.org]
Sent: Wednesday, June 01, 2011 11:42 AM
To: Harper-Ihem, Kecia
Subject: FW: Requesting Continuance of Reso. No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Ave. and Neece St. Traffic Signal Project
Attachments: Resolution 2011-110.pdf

Diana M. Grant

CEO's Executive Assistant
Phone: (951) 955-1103
Fax: (951) 955-1105
E-mail: dgrant@rceo.org

From: Sargent, Jennifer
Sent: Tuesday, May 31, 2011 6:14 PM
To: Grant, Diana
Cc: Katchadoorian, Donna; Hans, Christopher
Subject: FW: Requesting Continuance of Reso. No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Ave. and Neece St. Traffic Signal Project

Hi Diana,

Please see the following request to continue EO item 842 to June 14.

Thanks,
Jen

From: Brandl, Lisa
Sent: Tuesday, May 31, 2011 5:25 PM
To: Sargent, Jennifer
Cc: Mahayni, Cheryl; Kelly, Joan; Field, Robert
Subject: FW: Requesting Continuance of Reso. No. 2011-110, Authorizing Resolution of Necessity Regarding the Project to Improve Magnolia Ave. and Neece St. Traffic Signal Project

Hi Jennifer,

I'm not sure if this is a continuance, although I think it is on the long range. We need to have it moved to June 14 because the matter will be discussed during closed session on June 7. This is at the request of County Counsel. Please let me know if you need anything else. Thank you.

Lisa Brandl
Managing Director
Economic Development Agency
County of Riverside

06-07-2011
9.6

Albany
Atlanta
Brussels
Denver
Los Angeles

**McKenna Long
& Aldridge**
Attorneys at Law

300 South Grand Avenue • 14th Floor • Los Angeles, CA 90071-3124
Tel: 213.688.1000 • Fax: 213.243.6330
www.mckennalong.com

New York
Philadelphia
San Diego
San Francisco
Washington, D.C.

MICHAEL H. WALLENSTEIN
(213) 687-2110

EMAIL ADDRESS
mwallenstein@mckennalong.com

May 18, 2011

VIA OVERNIGHT MAIL

Ms. Kecia Harper-Ihem
Clerk to the Board of Supervisors
County Administrative Center
PO Box 1147
4080 Lemon Street, 1st Floor
Riverside, CA 92502-1147

Re: Union Pacific's Objection to Adoption of Resolution of Necessity – Resolution
No. 2011-109, Assessor Parcel Numbers 107-050-001 and 135-021-030

Dear Ms. Harper-Ihem:

This office represents Union Pacific Railroad Company ("Union Pacific") in the above-referenced matter. We are in receipt of Riverside County's (the "County's") May 5, 2011 letter (the "Notice") to Don Caldwell of Union Pacific regarding the Board of Supervisor's June 7, 2011 meeting (the "Meeting") to consider the adoption of a Resolution of Necessity to acquire a portion of Union Pacific's transportation corridor within the County – Resolution No. 2011-109 (the "Resolution"). The subject property is a 2.28 acre portion of a 1.9 mile former railroad corridor running through the median of Magnolia Avenue. This letter shall constitute Union Pacific's objection to the adoption of the Resolution on the grounds stated below and its Request to Appear and be heard at the Meeting or at a subsequent meeting scheduled for the purpose of considering the Resolution.

Pursuant to the holding in *Department of Transportation v. Cole* (1992) 7 Cal.App.4th 1281, Union Pacific objects to the adoption of the Resolution of Necessity for the condemnation of its property on the grounds that the County has failed to fully and adequately comply with the provisions of Government Code section 7267.2, and the Notice does not, thereby, comply with Code of Civil Procedure section 1245.220 et seq.. Compliance with these statutes is a prerequisite to adoption of a Resolution of Necessity.

The purported offer to acquire Union Pacific's property, dated April 21, 2011, fails to comply with the provisions of Government Code section 7267.2 in that, *inter alia*, it: (1) fails to provide sufficient information to indicate clearly the basis for the offer; and (2) fails to meet the constitutional, statutory and common law requirement for just compensation.

5-3-2011 3:22

6/14/2011

2011-5-107544

9.6

The County's offer is based on an appraisal that, without any apparent justification, fails to value the property for its highest and best use either as a transportation corridor or any other economically viable use. Instead, the appraiser deemed the property to have "no viable functional use," and allocated nominal value only. This conclusion, regardless of the amount offered, results in an offer that does not, and can not, constitute just compensation.¹

There are existing income-producing utility encroachments on the property and the County itself has a lease on the property for beautification purposes. The appraiser failed to consider these current uses and ignored any future economic uses of the property. Abandoned rail corridors such as the Subject Property regularly sell for market value either for continued corridor uses such as trails, linear parks, utility corridors, rail-banking and the like, or for other economically viable uses. The appraiser failed to consider any market data for such sales.

Just compensation requires payment of "the *highest price* . . . that would be agreed to" by a willing seller and a willing buyer. (Code of Civ. Proc. § 1263.310 et seq.) We are aware of a recent acquisition of less than a mile of an abandoned rail corridor in Southern California by a public entity, valued at more than \$13 million. The County has only very recently appraised a small portion of the very property that is the subject of the Resolution of Necessity and found substantial economic value in it. Similar property along this same median just inside the city limits of Riverside was acquired by the City in 1989 for a substantial amount. The inability, or unwillingness, of the appraiser in this matter to identify any economically viable uses is not a legitimate justification for denying constitutionally required just compensation.

Furthermore the County is in violation of Government Code section 7267.1(b). That statute provides that, when a public entity seeks to acquire private property, "[r]eal property shall be appraised before the initiation of negotiations, *and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during his or her inspection of the property.*" It is our understanding that at no time was Union Pacific given the opportunity to accompany the appraiser for the subject property or afforded any opportunity to discuss the valuation with him or with the County prior to the appraiser reaching his opinion of value. Under Government Code section 7267, public entities are required to the *greatest extent practicable* to comply with the provisions of Section 7267.1. The County made no effort to comply at all.

¹ We recognize that the amount of compensation offered is not before the Board for purposes of the Board's consideration of the Resolution of Necessity. For purposes of the Meeting, Union Pacific's objection does not go to the amount of compensation offered but rather to the failure of the County in making its offer of compensation to comply with statutory and constitutional requirements as well as the other statutory pre-requisites to condemnation mentioned herein.

Ms. Kecia Harper-Ihem
Clerk to the Board of Supervisors
May 18, 2011
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Finally, the Subject Property is occupied by a billboard pursuant to an existing signboard agreement between Union Pacific and a third party. The offer from the County fails to take into account, or even to consider, damages from the loss of that signboard as a result of the proposed project and the condemnation. These damages far exceed the total amount of the County's present offer.

Adopting the Resolution requires that the Board have evidence of and find that the offer required by Section 7267.2 of Government Code has been made. Although technically a purported offer has been made, because it doesn't comply with the statutory and constitutional requirements for such an offer, a finding by this Board that it does would be a gross abuse of discretion, invalidating the Resolution. (*See City of Stockton v. Marina Towers LLC* (2009) 171 Cal. App. 4th 93, 114 ("A gross abuse of discretion occurs where the public agency acts arbitrarily or capriciously, *renders findings that are lacking in evidentiary support*, or *fails to follow the required procedures and give the required notices* before condemning the property.").) Accordingly the Board should not, and cannot, adopt the Resolution.

Union Pacific hereby reserves the right to present additional written and/or oral objections at any time prior to or at the Meeting.

Finally, due to a scheduling conflict, we are also hereby requesting that the Meeting be rescheduled in coordination with this office for the next regularly scheduled public meeting of the Board. Please contact me at your earliest convenience to discuss this.

Very truly yours,



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MHW:kl

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