

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



ITEM
19.1
(ID # 9253)

MEETING DATE:

Tuesday, May 7, 2019

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA) AND TLMA-TRANSPORATION
DEPARTMENT :

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA) AND TRANSPORTATION AND
LAND MANAGEMENT AGENCY (TLMA)-TRANSPORTATION DEPARTMENT:
Public Hearing for the Adoption of Resolution No. 2019-041, Authorizing the
Resolution of Necessity for the Jurupa Road Grade Separation Project in the City
of Jurupa Valley; District 2; [Total Cost - \$2,590,550] – SB 132-100% (4/5th Vote
Required) (Clerk of the Board to File the Notice of Exemption)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Resolution No. 2019-041, Authorizing the Resolution of Necessity for the Jurupa Road Grade Separation Project;
2. Allocate the sum of \$2,580,000 for a deposit to the State Condemnation Fund; and
3. Authorize reimbursement to the Economic Development Agency-Real Estate Division (EDA-RE) for costs not-to-exceed \$550 in due diligence expenses and \$10,000 in staff time.

ACTION: Policy, 4/5 Vote Required

Robert Field, Assistant County Executive Officer/ECD

3/18/2019

Patricia Romo, Director of Transportation

4/15/2019

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: May 7, 2019
xc: EDA, Transp., Co.Co.

Kecia Harper
Clerk of the Board
By:
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$2,590,550	\$ 0	\$2,590,550	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: SB 132-100%			Budget Adjustment: No	
			For Fiscal Year: 2018/19	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Riverside County Transportation Department (County) in cooperation with the City of Jurupa Valley (City), the Riverside County Transportation Commission (RCTC) and the State Department of Transportation (Caltrans) desire to construct a new grade separation to replace the existing Union Pacific Railroad (UPRR) at-grade crossing located on Jurupa Road in the City just east of Van Buren Boulevard. Jurupa Road is a four-lane Arterial Highway that provides access to commercial, industrial and residential land uses in the City. This proposed project will grade separate Jurupa Road and the UPRR mainline tracks with an underpass where it crosses the tracks. The County Transportation Improvement Program (TIP) provides for improvements to the existing Union Pacific Railroad at grade crossing located on Jurupa Road, which is located within the jurisdictional boundaries of the City of Jurupa Valley.

On October 24, 2017 (item 3-14), the Board of Supervisors approved an agreement between the County, the City and RCTC that designated the County as the lead agency to implement the Jurupa Road grade separation project.

On October 16, 2018 (Item 3-23), the Board of Supervisors approved Resolution 2018-183 Agreeing to Hear Future Resolutions of Necessity for the Jurupa Road Grade Separation Project and found the Project Statutorily Exempt under the California Environmental Quality Act (CEQA) per section 15282(g) (SCH No. 2018108446). Therefore, CEQA compliance has been completed, the 35-day statute of limitations for a statutory exemption has expired, and no further action is required or warranted under CEQA.

The Economic Development Agency-Real Estate (EDA-RE) division has presented a written offer to the property owner as required by Government Code section 7267.2. The amount of the offer is consistent with current property values in the City of Jurupa Valley and is based upon fair market value appraisal report. EDA-RE 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.

Negotiations are still ongoing with the property owner listed below for the property rights needed for the Project. RCTD and EDA-RE will continue to conduct in good faith its negotiations with the property owner to reach a mutually-agreed upon settlement.

Assessor's Parcel Number	Parcel Nos.	Owner(s)
167-231-012	0060-018A	Jurupa Road Oil, Inc, a California corporation

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

On April 2, 2019, the Board approved Resolution No. 2019-040, Notice of Intention to Adopt a Resolution of Necessity for the Jurupa Road Grade Separation Project in the City of Jurupa Valley.

The County is authorized to acquire property by eminent domain under Article 1, Section 19 of the California Constitution and pursuant to various statues including Government Code Section 25350.5, Streets and Highway Code section 760 and Code of Civil Procedure section 1240.010, 1240-020, 1240-030, 1240.040, 1240.110, 1240.310, 240.320, 1240.410, 12450.510, and 1240.610.

Impact on Citizens and Businesses

The Project will enhance the operational characteristics (i.e. speed, efficiency, and reliability) of freight and passenger trains throughout Riverside County by eliminating conflicts between railroad operation, residential and commercial vehicular traffic and is expected to improve vehicular traffic circulation, and provide safer and more efficient access for motorists, residents, businesses, pedestrians and emergency vehicles in the area.

SUPPLEMENTAL:

Additional Fiscal Information

The amount of \$2,580,000 represents the deposits to be made to the State Condemnation Fund for the acquisition of the property interests referenced above. These costs are not reimbursable to EDA-RE as they are paid directly by the Transportation Department. The remaining costs in the amount of \$10,550 are reimbursable to EDA-RE. The following summarizes the funding necessary for the deposits to the State Condemnation Fund for the properties referenced above as well as due diligence and staff time during the condemnation process.

Right of Way Acquisition (Deposit to the State Condemnation Fund)	\$2,580,000
Litigation Guarantee	\$550
EDA-RE Real Property Staff Time (Condemnation process)	\$10,000
Total Estimated Costs	\$2,590,550

All costs associated with the deposits of these properties are fully funded by SB 132 in Transportation Department's budget for FY 2018/19. No net County costs will be incurred as a result of this transaction. These charges are estimates only and only actual amounts will be charged to the project.

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

Attachments:

- Exhibit A - Vicinity Map
- Resolution No. 2019-041 (with legal description)

Transportation Work Order No. C8-0060
RF:HM:VY:SG:CAO:jb 20.436 15861
MinuteTrak ID 9253


Renuka Dasika, Principal Management Analyst 4/29/2019


Gregory V. Priamos, Director County Counsel 4/22/2019

2 **Resolution No. 2019-041**

3 **Authorization to Adopt a Resolution of Necessity for the Jurupa Road Grade**
4 **Separation Project in the City of Jurupa Valley**

5
6 **WHEREAS**, the real Property that is the subject of this Notice (the "Subject
7 Property") is located in the City of Jurupa Valley, County of Riverside, State of
8 California, is legally described on the document attached hereto as Exhibit "A" (and
9 incorporated herein by this reference), is referenced as Parcel No. 0060-018A;

10 **WHEREAS**, the Subject Property, and the corresponding Assessor's Parcel
11 Number is listed below in Table One;

TABLE ONE	
Assessor's Parcel Number	Parcel Nos.
167-231-012	0060-018A

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17 **WHEREAS**, one of the Union Pacific Railroad crossings in the City of Jurupa
18 Valley is an at-grade crossing at Jurupa Road and Van Buren Boulevard. Traffic going
19 in and out of this area must wait at the tracks for trains to pass before they are able to
20 cross the tracks;

21 **WHEREAS**, the proposed project that is the subject of this Notice (the "Project")
22 is to tunnel under the Union Pacific Railroad tracks and Van Buren Boulevard in the
23 City of Jurupa Valley;

24 **WHEREAS**, the Project will improve access and safety for the City of Jurupa
25 Valley and improve goods and services movement through the region;

26 **WHEREAS**, the Subject Property is needed for public road purposes, utility
27 relocations, and for other uses required by the Project;

28 **WHEREAS**, Parcel 0060-018A fee simple interest is needed for the Project;

FORM APPROVED COUNTY COUNSEL
BY: *Gregory Gu* DATE: *April 22, 2019*
GREGORY GU

1 **WHEREAS**, the interest in the Subject Property that is the subject of this notice
2 (the "Subject Property Interest") is identified below in Table Two; and

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Table Two			
Subject Property	County Fee Simple	Other	Non-Exclusive Temporary Construction Easement
0060-18A	X		

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8 **WHEREAS**, the statutes that authorize the County of Riverside to acquire the
9 Subject Property Interest 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** as follows 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 May 7, 2019, 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 Project;

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

24 4. That the Subject Property Interest is necessary for the Project;

25 5. That the offers required by Section 7267.2 of the Government Code have
26 been made to the owners of record of the Subject Property;

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

7 7. As documented in the original Notice of Exemption approved by the
8 Board of Supervisors on October 16, 2018 (SCH No. 2018108446), County
9 Transportation conducted a review of the proposed Project and determined that the
10 Project, including the acquisition of the Property, was statutorily exempt from the
11 provisions of CEQA pursuant to State CEQA Guidelines Section 15282(g);

12 8. That acquisition of the Subject Property Interest will promote the interests
13 of the County of Riverside.

14 BE IT FURTHER RESOLVED AND ORDERED that the County Counsel of the
15 County of Riverside is hereby authorized and empowered:

16 1. To acquire the Subject Property Interest by condemnation in accordance
17 with the Constitution and laws relating to eminent domain.

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

20 3. To make application to the Court for an order to deposit the probable
21 amount of compensation out of proper funds under the control of the County into the
22 Condemnation Deposits Fund with the Office of the State Treasurer and to make
23 application to the Court and for an order permitting the County to take prejudgment
24 possession and use the Subject Property Interest for the purpose of constructing the
25 Project.

26 4. To compromise and settle such proceedings if such settlement can be
27 reached and in that event, to take all necessary actions to complete the acquisition,
28

1 including stipulations as to judgment and other matters and the causing of all payments
2 to be made.

3 5. To correct any errors or to make or agree to nonmaterial changes in the
4 legal description of the real property that are deemed necessary for the conduct of the
5 condemnation action, or other proceedings or transaction required to acquire the
6 Subject Property Interest.

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8 CAO:jb/041919/477TR/20.437

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10

11 ROLL CALL:

12 Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt

13 Nays: None

13 Absent: None

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

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Kecia R. Harper, Clerk of said Board

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By 

Deputy

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EXHIBIT "A"
LEGAL DESCRIPTION
0060-018A

ALL THAT REAL PROPERTY DESCRIBED AS PARCEL 1 AND PARCEL 2 OF GRANT DEED RECORDED OCTOBER 26, 2016 AS INSTRUMENT NUMBER 2016-0470072 OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, PURSUANT TO CERTIFICATE OF PARCEL MERGER NUMBER 1601, RECORDED AUGUST 30, 2017 AS INSTRUMENT NUMBER 2017-0360002, PERFECTED UNDER GRANT DEED RECORDED MAY 05, 2018 AS INSTRUMENT NUMBER 2018-0194364, OFFICIAL RECORDS OF SAID COUNTY; SAID PROPERTY LYING WITHIN LOT 5, BLOCK 26 OF SPARRLAND UNIT NO. 4, SECTION 14, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF JURUPA VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 15, PAGE 33, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 5;

THENCE NORTH 74°08'00" EAST, A DISTANCE OF 201.50 FEET, TO THE NORTHEAST CORNER OF SAID LOT 5;

THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 5, A DISTANCE OF 222.50 FEET, TO THE NORTH LINE OF THE SOUTH ONE-HALF OF SAID LOT 5;

THENCE ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF SAID LOT 5, SOUTH 74°08'00" WEST, A DISTANCE OF 201.50 FEET, TO THE WEST LINE OF SAID LOT 5;

THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 5, A DISTANCE OF 222.50 FEET, TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 43,124 SQUARE FEET OR 0.990 ACRES MORE OR LESS

PREPARED UNDER MY SUPERVISION:


TREVOR A. LEJA, P.L.S. 8869


DATED:



GLENN L. BLOCK
GLB@CALEDLAW.COM
DIRECT DIAL – 818-957-6577

April 17, 2019

VIA OVERNIGHT MAIL

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

**Re: May 7, 2019 – County of Riverside
Public Hearing considering adoption of Resolution of Necessity
Jurupa Road Grade Separation Project
9306 Jurupa Road, Jurupa Valley, CA
Assessor's Parcel No.: 167-231-012
Owners: Jurupa Road Oil, Inc. (Joseph Karaki and Alfred Daher)**

To The Honorable Clerk and County Board of Supervisors:

We have been retained as eminent domain counsel to Jurupa Road Oil, Inc. (“JRO”) with respect to the County’s proposed acquisition of the above-referenced property (“Subject Property”) for the Jurupa Road Grade Separation Project (“Project”). JRO owns the Subject Property, on which they are constructing a gas station, which they intend to operate.

Jurupa Road Oil, Inc. objects to the County’s consideration of the above-referenced Resolution of Necessity at this time and, if the hearing proceeds, we request the opportunity to be heard on such objections at the public hearing on May 7, 2019.

Jurupa Road Oil, Inc. respectfully requests that the County remove this matter from consideration at the May 7, 2019 meeting in order: (i) to provide the County an opportunity to obtain an appraisal that reflects the reasonable fair market value of the Subject Property and make a proper offer of probable compensation; and, (ii) thereafter, afford a reasonable opportunity to engage in good faith negotiations.

Unless and until the County makes a proper offer of just compensation, and engages in good faith negotiations, it is premature for the County to consider adoption of a Resolution of Necessity to take JRO’s property by force of eminent domain.

In the event the County denies JRO’s request to remove this matter from consideration on May 7, 2019, and the County proceeds with the public hearing for consideration of a Resolution

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Ms. Kecia R. Harper
Clerk to the Board of Supervisors County of Riverside
April 17, 2019
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of Necessity to acquire the Subject Property, JRO objects on several grounds, as discussed below:

1. CONSIDERATION OF THE PROPOSED RESOLUTION OF NECESSITY IS PREMATURE BECAUSE THE COUNTY HAS NOT MADE A LEGALLY SUFFICIENT OFFER AS REQUIRED BY CAL. GOVT. CODE 7267.2, ET SEQ.

The County's initial offer of compensation does not properly reflect the fair market value of the Subject Property as required by Code Civ. Proc. §1263.230, nor does the County's offer exclude "project influence" – the effect of the County's preliminary actions related to the Project and acquisition of the property – as required by Code Civ. Proc. §1263.330. Accordingly, the County has not made an offer that complies with Cal. Govt. Code §7267.2 so consideration of a Resolution of Necessity at this time is premature.

The County's offer fails to meet the legal requirements of "just compensation" to which JRO is entitled for the acquisition of the Subject Property. JRO is entitled to "just compensation" that reflects the fair market value of the Subject Property as defined by Cal. Code of Civ. Proc. §1263.320. Here, the County's offer is not even within the universe of "the highest price" on the date of value that would be agreed by a willing and knowledgeable buyer and seller for the Subject Property as required by law.

First, the County's offer is far below the actual costs that JRO has incurred to date to develop the gas station. JRO's owners are successful gas station operators and developers – having constructed, owned and operated dozens of gas stations in Southern California. Obviously, a knowledgeable seller would not sell for an amount that is lower than the costs they've incurred for construction of a new gas station. Here, the County's appraisal does not reflect the actual costs associated with construction and development of a gas station in Southern California in 2019.

Moreover, under no realistic scenario would a knowledgeable and willing seller agree to sell a partially constructed gas station unless there was an unusual circumstance that compelled them to do so (i.e., a distress sale). Such a situation would not be a market transaction. Thus, the County's offer appraisal – which is based on a partially completed station and less than JRO's actual costs incurred to date – clearly reflects the impact of the County's preliminary actions relating to the Project and the taking of the Subject Property. Thus, the County's offer violates Code Civ. Proc. §1263.330 which requires that project influence (the County's preliminary actions) must be excluded from consideration in determining the fair market value of the Subject Property.

As of the valuation date for the County's appraisal (March 17, 2019), JRO's construction of the gas station was more than 80% complete and JRO had already been working for several years to prepare the site, prepare and refine engineering and design plans, obtain all required entitlements, including obtaining a Conditional Use Permit for beer and wine sales.

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Clerk to the Board of Supervisors County of Riverside
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Moreover, JRO obtained construction financing, entered into contracts with vendors for all required improvements, fixtures and equipment, entered into a fuel supplier agreement with Phillips 76 (Union 76), and entered into a Franchise Agreement with Juice It Up. And, JRO had also received letters of intent from convenience store franchisors (7-11 and Circle K) and Wetzel's Pretzels also expressing their enthusiastic interest in the Subject Property.

Thus, although construction of the Subject Property is about 80% complete, JRO's actual development of the site and business operations is even further along.

Exacerbating the deficiency and unreasonableness of the County's offer, the County's appraisal states that it did not have sufficient information regarding the nature of the improvements constructed at the Subject Property. This completely ignores the voluminous documentation JRO provided to the County and its appraisers (in response to the County and its appraisers' request) establishing the actual improvements constructed. JRO provided a full-set of plans for the Subject Property, including all permits and approvals (CUP, etc.). It appears the County's appraiser intentionally ignored the information provided by JRO.

Not only did JRO provide to the County full copies of final plans, permits, approvals, contracts, and other documents related to the Subject Property, JRO also provided the County with documents reflecting internal and independent third-party projections for the performance of the gas station. Relying solely on a cost valuation approach (and failing to utilize the other applicable valuation approaches), the County ignored this pertinent information provided by JRO, verifying the status of development and establishing the expected performance of the Subject Property.

The County's failure to give due consideration to the actual status of development of the Subject Property and performance projections further undermines the validity of the County's offer. Thus, because of the substantive and legal deficiencies of the County's offer, and appraisal on which it is based, the County has not made a valid offer in compliance with the County's obligations, including without limitation under Cal. Govt. Code §7267.2, et seq.

The County's offer is also deficient and does not meet the minimum legal standards because the County failed to provide sufficient information for JRO to understand the valuation opinion on which it is based. The County failed to provide a Summary Statement that complies with the statutory requirements including, without limitation, that, "The written statement and summary *shall contain detail sufficient to indicate clearly the basis for the offer...*" The County failed to do so.

JRO respectfully submits that unless and until an offer is made giving appropriate consideration to these matters, the County cannot consider adoption of the proposed Resolution of Necessity.

Ms. Kecia R. Harper
Clerk to the Board of Supervisors County of Riverside
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2. IT IS IMPROPER FOR THE COUNTY TO PROCEED WITH A HEARING ON A RESOLUTION OF NECESSITY UNTIL THE COUNTY COMPLIES WITH GOVERNMENT CODE §7267.1 AND “MAKE[S] EVERY REASONABLE EFFORT” TO ACQUIRE JRO’S PROPERTY BY NEGOTIATION.

California Government Code §7267.1¹ requires the County to “make every reasonable effort to acquire expeditiously real property by negotiation.” Here, the County has not complied with this requirement because it has not made a legally sufficient offer, and has not engaged in substantive negotiations.

In fact, the County only responded to JRO’s initial counter-offer (dated January 17, 2019) by letter dated April 9, 2019 – *6 days after delivering Notice of the hearing considering the Resolution of Necessity*. JRO has also further indicated a willingness to reach a compromise resolution at an amount that reasonably reflects fair market value, but rather than engage in substantive settlement discussions the County is threatening a lawsuit.

The County’s effort to expeditiously adopt a Resolution of Necessity and file an eminent domain lawsuit before exploring reasonable opportunities to reach an agreement violates Federal and State prohibitions against coercive actions by a public agency. “The Agency shall not advance the time of condemnation ... or take any other coercive action in order to induce an agreement on the price to be paid for the property.” [Title 24 Code of Federal Regulations §24.102(h); see also similar California provision in Title 25 California Code of Regulations §6182(j)(1).] Here, the County’s actions constitute coercive efforts to compel JRO to agree to sell their property before the County files a lawsuit to take the property by force.

These same principles of justice and fairness have long been recognized by the California Supreme Court which stated, “The condemnor acts in a quasi-judicial capacity and should be encouraged to exercise his tremendous power fairly, equitably and with a deep understanding of the theory and practice of just compensation.” City of Los Angeles v. Decker (1977) 18 Cal. 3d. 861. The County’s actions here clearly fail to meet this established standard of fairness and equity.

Yet, instead of making *reasonable efforts* to negotiate with JRO – let alone making “every reasonable effort” to negotiate, as mandated by law – the County has advanced the time for filing a lawsuit early in the process.

Unless and until the parties have the opportunity to freely and reasonably engage in good-faith negotiations, consideration of a Resolution of Necessity to initiate an eminent domain lawsuit and litigate this matter is premature and improper.

¹ In addition to the California Government Code, the County is also subject to State and Federal acquisition regulations which impose similar requirements to make every reasonable effort to acquire property by negotiation. See Title 24 Code of Federal Regulations §24.102(a) and Title 25 California Code of Regulations §6182(a).

Ms. Kecia R. Harper
Clerk to the Board of Supervisors County of Riverside
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3. JRO RESERVES AND PRESERVES ANY AND ALL OBJECTIONS ON THE GROUNDS THAT: (1) THE PUBLIC INTEREST AND NECESSITY DO NOT REQUIRE THE PROJECT; (2) THE PROJECT IS NOT PLANNED OR LOCATED IN THE MANNER COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND LEAST PRIVATE INJURY; AND, (3) THE SUBJECT PROPERTY IS NOT NECESSARY FOR THE PROJECT.

At this point it is not clear that the County can establish by substantial evidence the requisite findings to properly support adoption of a Resolution of Necessity. Among other reasons, the County has not provided information regarding alternative designs considered which could accomplish similar public good but less private injury (including, without limitation, avoiding acquisition of the Subject Property).

For the foregoing reasons, adoption of a Resolution of Necessity at this time is improper as the County cannot establish: (i) that the public interest and necessity require the project; (ii) that the Project is planned in a manner that is compatible with the greatest public good and least private injury; and, (iii) that the taking of the Subject Property is necessary for the Project.

4. CONCLUSION.

For the foregoing reasons, among others, JRO respectfully submits that the County should not consider adoption of the proposed Resolution of Necessity on May 7, 2019. Instead, the County must first make a legally sufficient offer and, thereafter, engage in substantive good faith negotiations.

In the event that the public hearing proceeds on May 7, 2019, JRO requests the opportunity to appear before the County Board of Supervisors and be heard with respect to its objections to the proposed Resolution of Necessity. Please also ensure that this letter is presented to the Board of Supervisors for consideration and included in the public record for this matter.

Very truly yours,


Glenn L. Block
California Eminent Domain Law Group,
a Professional Corporation

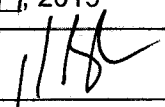
cc: Mr. Douglas Evertz, Murphy & Evertz, LLP (via email)
Mr. Joseph Karaki, Jurupa Road Oil, Inc.(via email)
Mr. Alfred Daher, Jurupa Road Oil, Inc. (via email)

REQUEST TO APPEAR AND BE HEARD ON THE MATTERS REFERRED TO IN
RESOLUTION NO. 2019-040, NOTICE OF INTENTION TO ADOPT A RESOLUTION OF
NECESSITY FOR THE JURUPA ROAD GRADE SEPARATION PROJECT IN THE CITY OF
JURUPA VALLEY.

NAME: Jurupa Road Oil, Inc. c/o Glenn Block - California Eminent Domain Law Group

ADDRESS: 3429 Ocean View Boulevard, Suite L
Glendale, CA 91208

TELEPHONE NO.: (818) 957-0477

DATED: April 17, 2019

(Signature)

View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialogue box that appears. Note: If your browser does not support this function, select Print from the File menu to print the label.
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<p>GLENN BLOCK (818)957-0477 CALIFORNIA EMINENT DOMAIN LAW 3429 OCEAN VIEW BLVD. GLENDALE CA 91208</p> <p>SHIP TO: KECIA HARPER 951-955-1060 CLERK OF THE BOARD OF SUPERVISORS FIRST FLOOR 4080 LEMON STREET RIVERSIDE CA 92501</p>	<p>0.5 LBS LTR</p> <p>1 OF 1</p>	<p>CA 918 7-02</p> 	<p>UPS NEXT DAY AIR</p> <p>1</p> <p>TRACKING #: 1Z RY3 967 01 9227 4138</p> 	 <p>Reference #1: 58201</p> <p>BILLING: P/P</p> <p>XOL19 03 08 NV45 09 0A 01/2019</p>
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RECEIVED RIVERSIDE COUNTY
 CLERK / BOARD OF SUPERVISORS
 2019 APR 18 AM 10: 01

Maxwell, Sue

From: Maxwell, Sue
Sent: Tuesday, April 30, 2019 11:42 AM
To: George Johnson (GAJohnson@RIVCO.ORG); COB-Agenda (COB-Agenda@rivco.org); District 4 Supervisor V. Manuel Perez (District4@RIVCO.ORG); District2; District3; District5; Supervisor Jeffries - 1st District (district1@rivco.org)
Cc: Olsen, Craig; Romo, Patricia; Gu, Gregg M.; Yzaguirre, Vincent
Subject: (Proposed May 7, 2019) Public Comment - Opposing Jurupa Road Grade Separation Project (Eminent Domain)
Attachments: 2019-4-142956.pdf

Good morning,

Attached is correspondence received via COB related to MinuteTraq No 9253, proposed to come Before the Board May 7, 2019, and being forwarded for your review.

The original will be placed with Agenda Back-Up.

Sincerely,

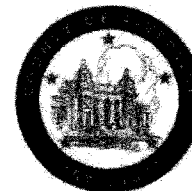
Sue Maxwell

Board Assistant
Clerk of the Board of Supervisors
4080 Lemon Street, 1st Floor, Room 127
Riverside, CA 92501
(951) 955-1069 Fax (951) 955-1071
Mail Stop #1010
cob@rivco.org
<http://rivcocob.org/>
<https://www.facebook.com/RivCoCOB/>



NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain **information that is privileged, confidential and exempt from disclosure** under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all its attachments.

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



ITEM
3.12
(ID # 8998)

MEETING DATE:

Tuesday, April 2, 2019

FROM : ECONOMIC DEVELOPMENT AGENCY (EDA) AND TLMA-TRANSPORATION
DEPARTMENT :

SUBJECT: ECONOMIC DEVELOPMENT AGENCY (EDA) AND TRANSPORTATION AND
LAND MANAGEMENT AGENCY (TLMA)-TRANSPORTATION DEPARTMENT:
Resolution No. 2019-040, Notice of Intention to Adopt a Resolution of Necessity
for the Jurupa Road Grade Separation Project in the City of Jurupa Valley,
District 2; [Total Cost - \$0] (4/5 Vote Required, Clerk to Send Notice to Property
Owner)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Resolution No. 2019-040, Notice of Intention to Adopt a Resolution of Necessity for the Jurupa Road Grade Separation Project in the City of Jurupa Valley;
2. Set a public hearing on May 7, 2019, for the Public Hearing for the Adoption of Resolution No. 2019-041, for the Jurupa Road Grade Separation Project in the City of Jurupa Valley; and
3. Direct the Clerk of the Board to send out the required notice to the property owners as required per Section 1245.235 of the Code of Civil Procedure.

ACTION: Policy, 4/5 Vote Required

Robert Field, Assistant County Executive Officer/ECD

2/22/2019

Patricia Romo, Director of Transportation

3/6/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended, and is set for public hearing Tuesday, May 7, 2019 at 9:00 a.m. or as soon as possible thereafter.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: April 2, 2019
xc: EDA, Transp., COB

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: SB 132-100%			Budget Adjustment: No	
			For Fiscal Year: 2018/19	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Riverside County Transportation Department (Transportation Department) in cooperation with the City of Jurupa Valley (City), the Riverside County Transportation Commission (RCTC) and the State Department of Transportation (Caltrans) desire to construct a new grade separation to replace the existing Union Pacific Railroad (UPRR) at-grade crossing located on Jurupa Road in the City of Jurupa Valley, just east of Van Buren Boulevard. Jurupa Road is a four-lane Arterial Highway that provides access to commercial, industrial and residential land uses in the City. This proposed project will grade separate Jurupa Road and the UPRR mainline tracks with an underpass where it crosses the tracks. The County Transportation Improvement Program (TIP) provides for improvements to the existing Union Pacific Railroad crossing located on Jurupa Road, which is located within the jurisdictional boundaries of the City of Jurupa Valley (Project).

On October 24, 2017 (Item 3-14), the Board of Supervisors approved an agreement between the County, the City and the RCTC, that designated the County as the lead agency to implement the Jurupa Road grade separation project.

On October 16, 2018 (Item 3-23), The Board of Supervisors approved Resolution 2018-183 Agreeing to Hear Future Resolutions of Necessity for the Jurupa Road Grade Separation Project.

The Project will eliminate an existing at-grade crossing at the Union Pacific Railroad (UPRR) grade crossing located on Jurupa Road in the City of Jurupa Valley. Therefore, the project qualifies for a California Environmental Quality Act (CEQA) Statutory Exemption per the California Code of Regulation (CCR) 15282 (g), such that the Project clearly constitutes the action as described in Public Resource Code (PRC) 21080.13 in which any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation in Section 21080.13 of the Public Resource Code (PRC) is Statutorily Exempt under CEQA.

As documented in the Notice of Exemption, the Transportation Department conducted a review of the proposed Project and determined that the Project, including the acquisition of the permanent and temporary easements, are categorically exempt from the provisions of CEQA, under the General Rule Exemption, pursuant to CEQA Guidelines Section 15051(a), because the Project is being carried out by the County, the County shall be the CEQA Lead Agency.

The Economic Development Agency-Real Estate Division (EDA-RE) has presented a written offer to the property owner as required by Government Code section 7267.2. The amount of the offer is consistent with current property values in the City of Jurupa Valley and is based upon fair market value appraisal report. EDA-RE has also offered to pay the reasonable costs, not-

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

to-exceed \$5,000, for an independent appraisal obtained by the property owner as required by Code of Civil Procedure section 1263.025.

Negotiations are still ongoing with the property owner listed below for the property rights needed for the Project. The Transportation Department and EDA-RE will continue to conduct good faith negotiations with the property owner to reach a mutually-agreed upon settlement.

Assessor's Parcel Number	Parcel Nos.	Owner(s)
167-231-012	0060-18A	Jurupa Road Oil, Inc., a California corporation

The Subject Notice of Intention would set a public hearing on May 7, 2019 for the proposed adoption of Resolution No. 2019-041 of the Jurupa Road Grade Separation Project. The scheduling of a Resolution of Necessity hearing on May 7, 2019 is needed in order to permit the Jurupa Road Grade Separation Project to move forward.

The subject property is the first of several properties that will need to be acquired to construct the Jurupa Road Grade Separation improvements. It is possible that additional properties may be acquired through a Resolution of Necessity if negotiations are unsuccessful. The subject property is being processed separate from the other properties due to the fact that a new gas station is currently under construction on the property and prioritizing will potentially reduce the amount of wasted construction work and therefore minimize the cost to the project.

The County is authorized to acquire property by eminent domain under Article 1, Section 19 of the California Constitution and pursuant to various statues including Government Code Section 25350.5, Streets and Highway Code section 760 and Code of Civil Procedure section 1240.010, 1240-020, 1240-030, 1240.040, 1240.110, 1240.310, 240.320, 1240.410, 12450.510, and 1240.610.

Impact on Citizens and Businesses

The Project will enhance the operational characteristics (i.e. speed, efficiency, and reliability) of freight and passenger trains throughout Riverside County by eliminating conflicts between railroad operation, residential and commercial vehicular traffic, and is expected to improve vehicular traffic circulation, and provide safer and more efficient access for motorists, residents, businesses, pedestrians and emergency vehicles in the area.

SUPPLEMENTAL:

Additional Fiscal Information

The following summarizes the funding necessary for the deposits to the State Condemnation Fund for the properties referenced above as well as due diligence costs and staff time during the condemnation process.

Right of Way Acquisition (Deposit to the State Condemnation Fund)	\$2,580,000
Litigation Guarantee	\$550
EDA-RE Real Property Staff Time (Condemnation process)	\$10,000
Total Estimated Costs	\$2,590,550

All costs associated with the deposits of these properties are fully funded by SB-132 and these costs will be included in a separate Form 11 along with the Authorizing Resolution of Necessity motion. No net County costs will be incurred as a result of this transaction. These charges are

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
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estimates only and only actual amounts will be charged to the Project.

Attachments:

- Aerial Map
- Resolution No. 2019-040 (with legals and plats)

RF:HM:VY:CAO:jb 20.433 15857 Transportation Work Order No. C8-0060
MinuteTrak: 8998


Rekini Dasika, Principal Management Analyst 3/25/2019


Gregory E. Priamos, Director County Counsel 3/8/2019

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Glenn Block, Esq.
 Eminent Domain Law Group
 3429 Oceanview Blvd., Suite L
 Gardendale, CA 91208



9590 9402 3534 7305 9047 20

2. Article Number (Transfer from service label)
 7013 0600 0001 1305 5369

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]* Agent Addressee

B. Received by (Printed Name) *D CARBON* C. Date of Delivery *4-16-19*

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Return Receipt for Merchandise
 Collect on Delivery Signature Confirmation™
 Collect on Delivery Restricted Delivery Signature Confirmation Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Doug Evertz
 Murphy & Evertz Attorneys at Law
 650 Town Center Drive, Ste. 550
 Costa Mesa, CA 92626



9590 9402 3534 7305 9047 44

2. Article Number (Transfer from service label)
 7013 0600 0001 1305 5321

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]* Agent Addressee

B. Received by (Printed Name) *LIVIA ESPINOSA* C. Date of Delivery

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Return Receipt for Merchandise
 Collect on Delivery Signature Confirmation™
 Collect on Delivery Restricted Delivery Signature Confirmation Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Doug Evertz
 650 Town Center Drive, Ste. 550
 Costa Mesa, CA 92626



9590 9402 3534 7305 9047 37

2. Article Number (Transfer from service label)
 7013 0600 0001 1305 5352

Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery *4/12*

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Adult Signature Priority Mail Express®
 Adult Signature Restricted Delivery Registered Mail™
 Certified Mail® Registered Mail Restricted Delivery
 Certified Mail Restricted Delivery Return Receipt for Merchandise
 Collect on Delivery Signature Confirmation™
 Collect on Delivery Restricted Delivery Signature Confirmation Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

Riverside County Board of Supervisors
Request to Speak



Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Glenn Block

Address: _____
(only if follow-up mail response requested)

City: _____ **Zip:** _____

Phone #: 818-957-6577

Date: 5/7/19 **Agenda #** 19.1

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: _____

BOARD RULES

Requests to Address Board on "Agenda" Items:

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

Requests to Address Board on items that are "NOT" on the Agenda:

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

Power Point Presentations/Printed Material:

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

Individual Speaker Limits:

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

Group/Organized Presentations:

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

Addressing the Board & Acknowledgement by Chairman:

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.