City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: FEBRUARY 25, 2025**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT **WARDS: 1 AND 2**

SUBJECT: **NOTICE HEARING: RESOLUTIONS OF THE CITY OF RIVERSIDE FINDING AND DETERMINING THE PUBLIC INTEREST AND NECESSITY FOR ACQUIRING AND AUTHORIZING THE CONDEMNATION OF CERTAIN REAL PROPERTY INTERESTS WITHIN THE CITY OF RIVERSIDE AND AUTHORIZING THE CITY ATTORNEY TO FILE COMPLAINTS IN EMINENT DOMAIN, AND THE TAKING OF ALL OTHER ACTIONS REQUIRED UNDER THE CITY'S EMINENT DOMAIN AUTHORITY – THIRD STREET GRADE SEPARATION PROJECT, FEDERAL PROJECT NO. STPL-5058 (081)**

ISSUE:

Adopt resolutions of the City of Riverside finding and determining the public interest and necessity for acquiring and authorizing the condemnation of certain real property interests within the City of Riverside and authorizing the City Attorney to file complaints in eminent domain, and the taking of all other actions required under the City's eminent domain authority – Third Street Grade Separation Project, Federal Project No. STPL-5058 (081).

RECOMMENDATIONS:

That the City Council:

1. Conduct a hearing to consider the adoption of Resolutions of Necessity and provide all parties that have an interest in the affected properties, or their representatives, an opportunity to be heard on the issues related to the Resolutions of Necessity;

2. Make the following findings as hereinafter described in this report: (a) the public interest and necessity require the proposed public project described in this report; (b) the proposed public project is planned and located in a manner to be most compatible with the greatest public good and the least private injury; (c) the real property interests being sought to be acquired as described in the Resolutions are necessary for the proposed public project; and (d) that the offers required by Government Code 7267.2 have been made to the owners of record;

3. Adopt, by at least five (5) votes, the Resolutions, in the forms presented at this meeting, declaring that the City Council's formal decision has been made relative to each of the foregoing findings to acquire the subject real property interests through eminent domain

proceedings.

4. Authorize the City Attorney to prepare and file the complaints in eminent domain and take all other actions necessary to acquire the subject real property interests; and

5. Except on matters involving policy determinations to be made by the City Council, authorize the City Manager, or his designee, to prepare and execute the appropriate documents and take all other actions as required under the City's eminent domain authority.

BACKGROUND:

On April 11, 2017, the City Council received a report on the review and prioritization of potential railroad grade separations along the Burlington Northern Santa Fe (BNSF) railroad at Jackson Street, Mary Street, Spruce Street, and Third Street. Following this report, the City Council approved the Third Street/BNSF line as the top priority railroad grade separation and directed the Public Works Department to issue a Request for Proposals to complete the Project Approval and Environmental Document phase of the Third Street Grade Separation.

On July 24, 2018, the City Council approved an agreement with the Western Riverside Council of Governments for $4.0 million in Transportation Uniform Mitigation Fee (TUMF) funding to fund the Project Approval and Environmental Document phase; and the Plans, Specifications, and Estimates phases of the Third Street Grade Separation project.

On March 9, 2020, Riverside County Transportation Commission made a commitment to program $18 million in federal Congestion Mitigation and Air Quality (CMAQ) funds for the Project in the event the City's future grant application to the California Transportation Commission for SB1-Trade Corridor Enhancement Program grant for the right-of-way phase of the Project was unsuccessful.

DISCUSSION:

The Third Street Grade Separation Project (Project) proposes to construct a railroad underpass at Third Street and the BNSF railroad tracks. Third Street will be lowered, and a bridge will be constructed to convey rail traffic. The Project will require the realignment of Commerce Street, construction of slopes, retaining walls, a storm water pump station, and relocation of wet and dry utilities. The City of Riverside's Public Works Department (City) has identified twenty-nine (29) properties with thirteen (13) ownerships along Third Street that are necessary to facilitate the Project.

Real Property Services Division has been involved in the acquisition of real property interests necessary for the Project. Between August 2024 and October 2024, Notices of Decision to Appraise letters were sent out and statutory Offers to Purchase were made to the owners of record. The offers were based on independent appraisals of fair market value completed by Curtis Rosenthal, Inc. Since initiating negotiations of the 13 ownerships impacted by the Project, one agreement is in escrow and 12 remain to be settled. Because the sites are necessary for the construction of the Project and Statutory Offers to Purchase were not accepted by the owners, to advance the project, the next necessary step is to pursue eminent domain proceedings for the 12 outstanding ownerships.

The ownerships, Assessor's Parcel Numbers (APN), and property addresses of nine (9) of the affected parcels, along with their related real property interests, are the subject of this action and

are listed as follows:

1. Owner: LR Miller
    a. APNs: 210-190-013, 023
    b. Address: 2665 & 2675 Third Street
    c. Interest: Full take
    d. Contact:
        i. Diane Elton
            1. (951) 784-1790
            2. lrmillerco@aol.com
        ii. Armando Villa Gomez – Assistant to Diane Elton
    e. Tenants:
        i. The Stacey Company
            1. Kenneth Stacey
            2. 2675 Third Street, Unit K
            3. (951) 204-8528 & (909) 784-2410
            4. Sublessee:
                a. Curtis Adams Backhoe
                    i. Curtis Adams
        ii. The Patrician Group
            1. Jerry J. Crumbaker
            2. 2665 Third Street, Unit C
            3. (951) 682-1352
        iii. Dingler Art Studio
            1. John Dingler
            2. 2665 Third Street, Units A & B
            3. (951) 787-1881 & (310) 418-8467
            4. giannitrieste.weebly.com
        iv. Jaime Hernandez Trucking
            1. Jaime Hernandez
            2. 2665 Third Street, Yard #3
        v. Gilmore Trucking
            1. Jack Gilmore
            2. 2675 Third Street, Yard #2
            3. (951) 788-4814
        vi. Boles Parts Supplies West
            1. Jerry Boles & Gary Cooley
            2. 2665-2675 Third Street, Units L-Q
            3. (404) 559-8571 & (951) 784-1790
            4. jboles@bpsparts.com & bpswestmgr@bpsparts.com
        vii. Villa Gomez Auto Sales
            1. Armando Villa Gomez
            2. 2675 Third Street, Unit J (Mail to Unit Q)

2. Owner: Sun Trust
    a. APN: 211-021-001
    b. Address: 3069 Fourth Street
    c. Interest: Full take

3. Owner: Condor
    a. APN: 211-021-024
    b. Address: Vacant Land

c. Interest: Full take
d. Tenant:
    i. All Access Rentals

4. Intentionally omitted

5. Owner: Iron Lofts
    a. APN: 211-022-026
    b. Address: Vacant Land
    c. Interest: Full take

6. Owner: Blue Banner
    a. APNs: 210-190-014, 016, 020, 025 & 027
    b. Address: 2509 Third Street
    c. Interest: Street & Highway Easement and 36-month Temporary Construction Easement with Improvements

7. Owner: County of Riverside
    a. APNs: 211-021-003 thru 005, 022, 027
    b. Address: 2530, 2544, 2570 & 2580 Third Street & 3315 Park Avenue
    c. Interest: Street & Highway Easement, 36-month Temporary Construction Easement

8. Owner: CLPH BF (Cube Smart)
    a. APN: 213-060-026
    b. Address: Vacant Land
    c. Interest: 36-month Temporary Construction Easement

9. Owner: Realty Income
    a. Smart & Final
        i. APN: 213-142-015
        ii. Address: 3310 Vine Street
        iii. Interests: Street & Highway, Access & Sewer Easements and 36-month Temporary Construction Easement with Improvements
    b. Office Max
        i. APN: 213-142-028
        ii. Address: 3350 Vine Street
        iii. Interest: Access Easement

10. Owner: Gilmore Trust
    a. APN: 211-022-003
    b. Address: 3496 Commerce Street (vacant land)
    c. Interest: 36-month Temporary Construction Easement

HEARING AND REQUIRED FINDINGS:

On February 10, 2025, the required notices of hearing were sent by first class mail to the property owners of record. The notices specified the City's intent to consider the adoption of the Resolutions, right to appear and be heard on the issues noted below, and that failure to file a written request would result in a waiver of the right to appear and be heard. The City has scheduled this hearing at which all persons who filed a written request within fifteen (15) days of

the date the notices were mailed may appear and be heard. This hearing has also been scheduled for the City Council to make the required findings for the Resolutions.

The Resolutions require a two-thirds majority vote to adopt (five votes), and the City Council must make four (4) findings. The required findings and facts in support thereof are as follows:

I. Whether the public interest and necessity require the proposed public project.

Discussion: The Project will improve safety, eliminate significant vehicular delays and improve access for emergency vehicles. The Burlington Northern Santa Fe (BNSF) railroad maintains three tracks at this location that are used for both freight and passenger (Metrolink and Amtrak) rail traffic, with future plans for the addition of a 4th main track. Third Street is a key east-west arterial that links residential and retail areas in the downtown area of Riverside and carries a total of 13,063 vehicles per day. John W. North High School is one mile east of the crossing and approximately 67 (with or without passengers) school buses travel along the rail crossing each day. There are also a significant number of pedestrians walking across the tracks at Third Street including those attending the nearby high school.

During construction, Third Street, between Vine Street and Park Avenue, will be closed to traffic. Each of the three existing BNSF tracks will be permanently relocated to the east of the existing tracks by approximately 75-feet. Detour routes will also be established around construction site. Local access to residential and commercial properties will be provided during construction.

The Third Street at-grade crossing was ranked as the Number 3 priority on the California Public Utilities Commission California Grade Separation Priority list. The construction of the underpass would eliminate traffic delays caused by passing trains, relieving congestion and increasing traffic efficiency while enhancing this arterial street, improving air quality, reducing noise related to traffic and train horns, eliminating train/vehicle accidents, and improving public safety and the quality of life for nearby residents.

II. Whether the proposed project is planned and located in a manner that would be most compatible with the greatest public good and least private injury.

Discussion: The design of the Project was selected based on an evaluation of capital costs, traffic circulation, right-of-way impacts, utility impacts, railroad maintenance and operations, roadway alignment, and constructability. The proposed Project is planned and located in a manner that will be most compatible with the greatest public good. The proposed construction will reduce traffic delays, accommodate increased traffic from increased movement of goods by rail from Southern California, the City of Riverside, and adjoining jurisdictions, and improve traffic safety on Third Street. Furthermore, the proposed Project is planned and located in a manner that will be most compatible with the least private injury, by limiting acquisition to those parcels and property interests that are essential to complete the proposed Project in a manner that enhances the health, safety and welfare of the general public.

III. Whether the property sought to be acquired is necessary for the proposed Project.

Discussion: The real property interests sought to be acquired are necessary for the construction of the proposed Project. The existing improvements are inadequate to

accommodate increased traffic flow and volume on Third Street caused by the increased movement of goods by rail from southern California ports and distribution centers, as well as local growth in Riverside County, the City of Riverside, and adjoining jurisdictions, all of which will continue to increase. Unless these real property interests are acquired by eminent domain, the Project cannot be constructed as proposed.

IV. Whether the offer required by Section 7267.2 of the Government Code has been made to each of the owners of record.

Discussion: Confirmation and identity of the record owners of the parcels affected by the proposed Project was made by ordering litigation guarantees and by obtaining the last equalized tax rolls. The statutory offers were then made to those property owners of record based on approved independent fee appraisals of fair market value, from October 2024 through November 2024.

The City of Riverside has an overriding need for prejudgment possession of the property interests identified herein. Third Street is a key east-west arterial that links residential and retail areas in the downtown area of Riverside and carries a total of 13,063 vehicles per day. John W. North High School is one mile east of the crossing and approximately 67 school buses traverse the rail crossing each day, in addition to 72 freight trains and 20 passenger trains. The rail traffic causes approximately 192 minutes (3.2 hours) per day of blocking delay on Third Street, significantly impacting emergency vehicles and hampering the City's ability to respond to life-threatening emergencies. These train delays also result in local air pollution from idling vehicles and noise pollution from train horns, which diminish the quality of life for nearby residents. Prompt completion of the proposed improvements will reduce traffic problems and delays to emergency response vehicles and other travelers through the Project and will ultimately relieve traffic demands and congestion locally and throughout the city.

STRATEGIC PLAN ALIGNMENT:

This item contributes to the Envision Riverside 2025 City Council Strategic Priority **6** – Infrastructure, Mobility & Connectivity, specifically **Goal 6.2** – Maintain, protect and improve assets and infrastructure within the City's built environment to ensure and enhance reliability, resiliency, sustainability and facilitate connectivity.

The item aligns with each *of* the five Cross-Cutting Threads as follows:

1. **Community Trust** – The City is transparent and makes decisions based on sound policy, inclusive engagement, involvement of City Boards and Commissions, and timely and reliable information. Approving this condemnation action shows that the City serves the public interest that benefits the City's diverse populations and results in the greater public good.

2. **Equity** – The City is supportive of the City's racial, ethnic, religious, sexual orientation, identity, geographic, and other attributes of diversity. Approving this condemnation action shows that the City is committed to advancing the fairness of treatment, recognition of rights, and equitable distribution of services ensuring that every member of the community has equal access to share in the benefits of community progress.

3. **Fiscal Responsibility** – The City is a prudent steward of public funds. Approving this condemnation action ensures responsible management of the City's financial resources while providing quality public services to all.

4. **Innovation** – The City is inventive and timeline in meeting the community's changing needs. Approving this condemnation action shows that the City prepares for the future through collaborative partnerships and adaptive processes.

5. **Sustainability & Resiliency** – The City is committed to meeting the needs of the present without compromising the needs of the future. Approving this condemnation action ensures the City's capacity to persevere, adapt and grow during good and difficult times alike.

FISCAL IMPACT:

The total fiscal impact of the project costs for right-of-way acquisitions, relocation, and building demolitions are estimated to be $23,000,000. Adequate funds for the project are available in the Third Street Grade Separation project account numbers as listed in the table below.

Table 1. Available Funding

Fund	Project	Account	Amount
TUMF	Third St./BNSF Grade Separation	9990119-440315	$6,936,985.04
Capital Outlay-Grants		9990128-440126	$17,772,833.76
		Total Available Funding	**$24,709,818.80**

Prepared by: Sheryn Smay, Supervising Real Property Agent
Approved by: Jennifer A. Lilley, Community & Economic Development Director
Certified as to availability of funds: Kristie Thomas, Finance Director/Assistant Chief Financial Officer
Approved by: Mike Futrell, City Manager
Approved as to form: Jack Liu, Interim City Attorney

Attachments:
1. Resolution of Necessity with Legal Descriptions and Plat Maps (Miller)
2. Resolution of Necessity with Legal Descriptions and Plat Maps (Sun Trust)
3. Resolution of Necessity with Legal Descriptions and Plat Maps (Condor)
4. Intentionally omitted
5. Resolution of Necessity with Legal Descriptions and Plat Maps (Iron Lofts)
6. Resolution of Necessity with Legal Descriptions and Plat Maps (Blue Banner)
7. Resolution of Necessity with Legal Descriptions and Plat Maps (County of Riverside)
8. Resolution of Necessity with Legal Descriptions and Plat Maps (CLPH BF)
9. Resolutions of Necessity with Legal Descriptions and Plat Maps (Realty Income)
10. Resolution of Necessity with Legal Descriptions and Plat Maps (Gilmore Trust)
11. Notice
12. Presentation

SS:
9/30/2024
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