

# RIVERSIDE PUBLIC UTILITIES

## Board Memorandum

**BOARD OF PUBLIC UTILITIES**

**DATE:** OCTOBER 24, 2016

**ITEM NO:** 12

**SUBJECT:** ADOPTION OF RESOLUTION OF NECESSITY AUTHORIZING INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE ELECTRICAL FACILITIES AND REAL PROPERTY INTERESTS FROM SOUTHERN CALIFORNIA EDISON WITHIN THE CITY OF RIVERSIDE ANNEXATION AREAS 95 AND 99 AND APPROVAL OF WORK ORDER NO. 1704094 FOR \$444,000.

**ISSUES:**

Recommend that the City Council consider adopting a Resolution of Necessity authorizing the initiation of eminent domain proceedings to acquire electrical facilities and real property interests from Southern California Edison within the City of Riverside Annexation Areas 95 and 99; and approve Work Order No. 1704094 in the amount of \$444,000.

**RECOMMENDATIONS:**

That the Board of Public Utilities:

1. Recommend that the City Council consider adoption of a Resolution of Necessity authorizing the initiation of eminent domain proceedings to acquire electrical facilities and real property interests from Southern California Edison within the City of Riverside Annexation Areas 95 and 99;
2. Recommend that the City Council find that the transfer of ownership is exempt from CEQA; and
3. Approve Work Order No. 1704094 in the amount of \$444,000 for deposit into the State Condemnation Fund for the eminent domain process.

**LEGISLATIVE HISTORY:**

On February 1, 2005, City Council adopted Resolution No. 20863 for the annexation of the area designated as Annexation No. 95; and on April 5, 2005, City Council adopted Resolution No. 20911 approving the annexation of the area designated as Annexation No. 99.

**BACKGROUND:**

During the high economic growth period, from 2000 to 2008, the City of Riverside (City) annexed several areas with existing and future developments. The existing developments in the acquired annexations included facilities that received electric distribution service from Southern California Edison (SCE). Currently, many of the Riverside residents within the annexed areas are still served by SCE. The City continues to work on acquiring SCE's electrical facilities and real property interests for Annexation No. 95 and Annexation No. 99. The transfer of ownership requires a Resolution of Necessity to be adopted by the City Council in order to authorize the initiation of eminent domain proceedings to acquire the necessary SCE electrical facilities and real property interests within those areas. The transfer of ownership is not subject to CEQA, pursuant to Sections 15301(b) (existing facilities) and 15061(b)(3) (no

effect) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

### **DISCUSSION:**

The focus of this proposed Board action is the acquisition of SCE's electrical facilities and real property interests within Annexation No. 95 and Annexation No. 99. Annexation No. 95 is located northerly of Columbia Avenue, bounded by Orange Street to the west and West La Cadena Drive to the east. Annexation No. 99 is bounded by Galaxie Road to the west and the existing City limits. The acquisition of 121 facilities and 130 services are required in Annexation No. 95. The acquisition of 14 facilities and 6 services are required in Annexation No. 99.

Statutory purchase offers were made to SCE between February 2014 and April 2016. On May 27, 2016, the City received a letter from SCE declining the offer for the purchase of SCE's assets in Annexation No. 95 and Annexation No. 99. Public Utilities Code Section 851 would first require SCE to obtain approval from the Public Utilities Commission to sell its electrical assets that are currently used to serve the general public. Because SCE has rejected the City's offer, staff recommends that a Resolution of Necessity be adopted and an eminent domain action be filed in court in order to acquire the necessary real property interests and electrical facilities.

### **HEARING AND REQUIRED FINDINGS:**

Subject to Board approval recommending that the City Council consider adoption of the Resolution, required notices of the hearing will be mailed to the property owner of record. The notice will specify the City's intent to consider adoption of the Resolution, the 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 will schedule the hearing at which all persons who filed a written request may appear and be heard. The hearing is also necessary for the City Council to make the required findings for the Resolution.

The Resolution requires a two-thirds majority vote to adopt 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 project.

Discussion: Riverside Public Utilities (RPU) has an obligation to provide a safe and reliable energy supply and electrical infrastructure to all customers, including government, education, and health facilities within the City limits, so long there is not another entity providing such electric service. Here, the City wishes to extend such electric service within its City limits, to an area that is already served by Southern California Edison (SCE). This project will enable RPU to acquire existing utility interests from SCE in order for RPU to better serve the residents of the City.

The public interest is best served by having all areas of the City served by the City's own electric utility. The city limit boundary is a line of demarcation used for many purposes, including the delineation of electric service territory. If the City serves the area and acquires the electrical facilities on the annexation it will control the construction and expense of the added electrical utility facilities in the developing area. Further, the City serving this area would avoid customer confusion for marketing of energy conservation programs. The City spends significant resources to market its energy conservation programs to its residents, and there is an efficiency to be realized if the residents receive their information from one provider – the City.

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

Discussion: The utility interests and easements are pre-existing and owned by SCE. The City is only acquiring utility interests that already exist and nothing more. These interests are necessary for providing electrical service by RPU to City residents in certain annexed areas of the City. Annexations 95 and 99 were declared categorically exempt from the California Environmental Quality Act (CEQA). As such, the proposed project is planned and located in a manner that will be most compatible with the least private injury to the parcels and property interests that are necessary to complete the project in a manner that enhances the health, safety and welfare of the general public by supplying reliable and safe electrical energy.

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

Discussion: The taking of the property is necessary for the expansion of the electrical distribution system of the City of Riverside into the areas annexed. The purchase by the City of the existing facilities would be more economical than the construction of duplicate facilities and such purchase would also satisfy any obligation by the City to compensate SCE for any of SCE's facilities that are idled by the City taking over the service area. The facilities proposed for purchase can be connected to the City's electrical system after minor modification.

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

Discussion: The statutory offer was made on April 27, 2016 as required and is in substantial compliance with Government Code section 7267.2.

**FISCAL IMPACT:**

The estimated cost to acquire the subject real property interests and electrical facilities is \$444,000. This amount is required to be deposited into the State Condemnation Fund as part of the eminent domain process. Any subsequent expenditure required above that amount would require additional authorization.

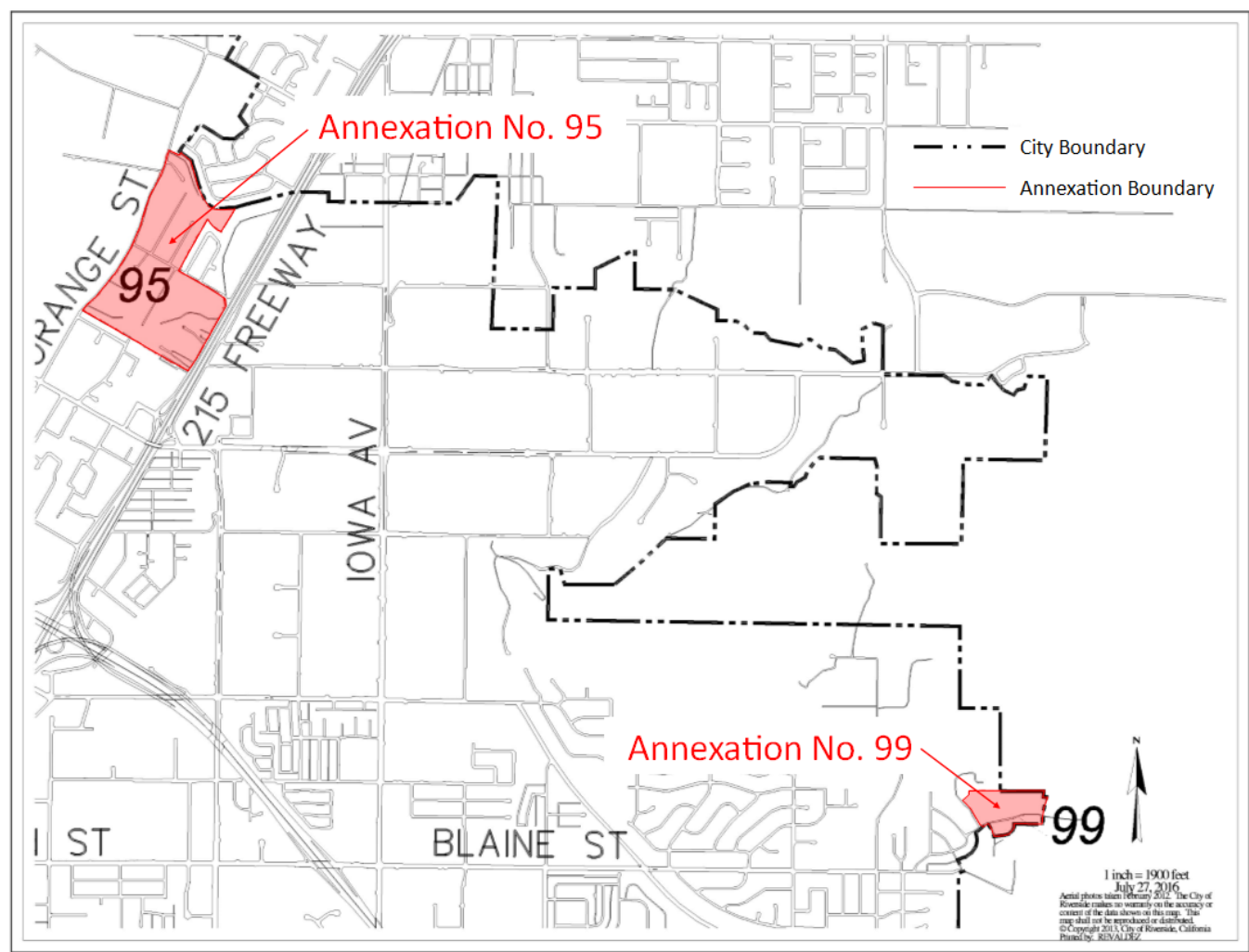
Sufficient funds are available in Public Utilities' Electrical Capital Account No. 6130000-470634.

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Approved by: Girish Balachandran, Utilities General Manager  
Approved by: John A. Russo, City Manager  
Approved as to form: Gary G. Geuss, City Attorney

Certifies availability  
of funds: Laura Chavez-Nomura, Utilities Assistant General Manager/Finance

Attachments:

1. Resolution of Necessity: Southern California Edison
2. Presentation



Annexation No. 95 and No. 99 Areas