



STAFF REPORT
5/26/2021

TO: Honorable Mayor and City Council Members

FROM: Best Best & Krieger, City Attorney

SUBJECT: Resolution No. 2021-33, Public Hearing to Consider the Adoption of a Resolution of Necessity to Acquire by Eminent Domain a Fee Interest in Certain Real Property Identified as APN 763-020-021 located at Avenue 50 West of SR-86 in Coachella, California for the SR-86 / Avenue 50 Interchange Project

STAFF RECOMMENDATION:

That the City Council:

1. Conduct a public hearing to consider the adoption of a Resolution of Necessity, including providing all parties interested in the affected property and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to the Resolution of Necessity.
2. Make the following findings as hereinafter described in this report:
 - a. The public interest and necessity require the proposed project;
 - b. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - c. The real property to be acquired is necessary for the project; and
 - d. The offer of just compensation has been made to the property owners.
3. Adopt attached Resolution No. 2021-33, a Resolution of Necessity declaring that the acquisition of a fee interest in certain real property identified as Assessor Parcel No. 763-020-021 located at Avenue 50 west of State Route 86 (“SR-86”) is necessary for the SR-86 / Avenue 50 Interchange Project.

EXECUTIVE SUMMARY

The City of Coachella and the California Department of Transportation (“Caltrans”) have proposed the SR-86 / Avenue 50 Interchange Project (“Project”) involving the construction of a new interchange at SR-86 and Avenue 50, approximately 1.1 miles north of the existing SR-86/Avenue 52 intersection and 1.95 miles south of the existing SR-86/Dillon Road interchange. The City seeks to acquire the real property identified as Assessor Parcel No. 763-020-021 located at Avenue 50 west of SR-86 for the Project.

BACKGROUND:

The Project will convert a portion of SR-86 from an at-grade signalized intersection into a grade-separated full interchange with a new overcrossing bridge and access ramps. A new Avenue 50 overcrossing will be constructed with associated on- and off-ramps and signalized intersections. The Project will also construct a new Avenue 50 bridge structure over the Whitewater River/Coachella Valley Stormwater Channel (“CVSC”). This new bridge structure over the CVSC will replace the existing at-grade paved low water crossing and will include the following associated improvements: realignment and widening of a portion of Avenue 50, realignment of portions of Tyler Street on both the west and east sides of SR-86, respectively, and, the existing 1-lane in each direction road that is located within the limits of the CVSC would become a CVSC maintenance road.

The purpose of the Project is to improve mobility to and from eastern parts of the City of Coachella by providing direct and dependable access over the CVSC, improve operational efficiency by replacing the existing SR-86/Avenue 50 intersection with a new interchange, improve expressway access of the City and the Coachella Valley Region, implement improvements consistent with the City’s circulation plan, and improve traffic operations and accommodate planned growth by enhancing levels of service at local street intersections and adjacent interchanges. The existing SR-86/Avenue 50 interchange cannot accommodate anticipated planned growth for the area and does not provide adequate mobility, operational efficiency, and dependable access through the Project area or connections for the future CV Link project.

The registered owner of the Subject Property, AHD Limited Partnership (“AHD”), is represented by counsel, Michael Kehoe and Michael Leifer of Palmeiri, Hennessey & Leifer, LLP. A notice of this public hearing was mailed and emailed to both AHD and counsel in accordance with Section 1245.235 of the California Code of Civil Procedure.

DESCRIPTION OF PROPERTY TO BE ACQUIRED:

The parcel affected by the proposed acquisition is located along the west side of SR-86 at the southeast corner where Tyler Street/Avenue 50 turns north to cross SR-86 in Coachella, California, bearing Assessor Parcel No. 763-020-021 (“Subject Property”). The Subject Property is a trapezoidal-shaped site containing approximately 14.1 acres and is unimproved. The Subject Property is bordered on the east by SR-86, on the north by 50th Avenue, on the west by the CVSC, and on the south by a privately-owned property.

AHD has filed for approvals to develop the site for commercial use, indicating the development would include a convenience store with a service station, a drive-thru restaurant, a sit-down restaurant, a car wash tunnel, a truck washing facility, and a four-story hotel. That project would require, among other items, a zone change from A-R (Agricultural Reserve) to C-G (General Commercial), conditional use permits for the drive-thru and automotive and truck washing facilities, and a variance to allow a hotel in excess of 50 feet in height. The City has worked with AHD throughout the application process, but AHD has not provided required information to advance the proposal.

HEARINGS AND REQUIRED FINDINGS:

The recommended actions of the City Council pertain to the Subject Property owned by AHD, namely Assessor Parcel No. 763-020-021.

California eminent domain law provides that a public entity may not commence eminent domain proceedings until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property or their representatives a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project.
2. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The real property to be acquired is necessary for the project.
4. The offer of just compensation has been made to the property owner.

The above four required findings are addressed as follows:

1. The Public Interest and Necessity Require the Proposed Project

Avenue 50 is a major east/west thoroughfare that begins at the Eisenhower Drive intersection in the City of La Quinta, which then travels easterly through Indio and currently ends at the All-American Canal in Coachella. However, in conjunction with the La Entrada development, Avenue 50 will be extended to Interstate 10. During severe winter and summer storms, the existing Avenue 50 low water crossing is frequently inundated and damages due to debris flows within the CVSC. The flooding and the resulting road closure have a direct impact on the public's health and safety. In addition, the frequent flood damage results in substantial cost to the City for road repairs; and increases the response time of emergency vehicles.

Avenue 50 within the Project limits is anticipated to operate at an unsatisfactory level of service as a result of planned development and associated traffic projections. The City's Land Use Plan Element of the General Plan identifies ongoing and planned development in the eastern part of Coachella that is expected to increase the local population and local/regional traffic demands.

The purpose of the Project is to improve mobility to and from eastern parts of the City by providing direct and dependable access over the CVSC; improve operational efficiency by replacing the existing SR-86/Avenue 50 intersection with a new interchange; improving the expressway access for the City and the Coachella Valley Region; implementing improvements consistent with the City's circulation plan; and improving traffic operations and accommodating planned growth by enhancing levels of service at local street intersections and adjacent interchanges.

The Project will be constructed in two separate phases, due to funding considerations. The first phase will focus on construction of the new bridge structure over the CVSC and will include the associated realignment of Avenue 50 and Tyler Street west of SR-86. Although the first phase will be constructed in advance, it has independent utility and usability even without the second phase. The first phase will implement a new bridge over CVSC that will eliminate flooding hazards along The SR-86 / Avenue 50 interchange project can be implemented and fully operational without any additional transportation improvements in the area occurring.

2. The Project Is Planned or Located in a Manner that Will Be Most Compatible with the Greatest Public Good and Least Private Injury

In November 2018, the City and Caltrans prepared an Initial Study with (Proposed) Mitigated Negative Declaration/Environmental Assessment (“Initial Study”). The Initial Study proposed and considered a number of design alternatives, however, right of way acquisition was similar for all alternative options, and the alternatives would require relocation of a single residence and acquisition of other structures. After a public circulation period and consideration of all comments, Caltrans selected the preferred alternative and made the final determination of the Project’s effect on the environment.

Based on the Project design resulting from these efforts, acquisition of the Subject Property that is the subject of this Resolution of Necessity hearing is necessary.

3. The Real Property To Be Acquired Is Necessary for the Proposed Project

Based on the location of the existing roadways, both the eastern abutment for the new CVSC bridge and the western abutment for the SR-86 overpass and the new freeway onramp will be located on the Subject Property, necessitating the acquisition of the entire Subject Property rather than a partial acquisition, as it would be impossible to build the new bridges and construct a new onramp while leaving a commercially viable remainder piece between the onramp and the Whitewater Channel. The Subject Property is described in Exhibit A attached to the Resolution of Necessity. City staff, working with City consultants, determined these property interests to be most suitable for the Project.

4. The Offer of Just Compensation Has Been Made

The City retained the services of Stephen D. Roach, an independent, licensed, and MAI-designated appraiser to conduct an appraisal of the Subject Property in accordance with accepted principles consistent with California valuation law and to prepare a summary of the basis established as just compensation pursuant to Government Code section 7267.2.

In July 2020, and based on the approved appraisal, the City, in accordance with Government Code section 7267.2, made an offer of just compensation to the record owner, through counsel, to purchase the Subject Property. Although a negotiated settlement may still be possible for the Subject Property, it would be appropriate to commence the procedures to acquire the Subject Property through eminent domain to ensure that the City has possession of the Subject Property to begin construction of the Project and meet funding and certification deadlines for the Project.

ENVIRONMENTAL ANALYSIS:

Environmental clearances have been completed for the Project. The “Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact” was approved by the deputy director of Caltrans in May of 2019.

FISCAL IMPACT:

The Project’s current funding includes approximately \$46 million in federal grant aid in the form of Highway Bridge Replacement Program (HBP) funding and an additional \$5.5 million in local match funds supplied by the Coachella Valley Association of Governments (CVAG). In addition

to the secured funds listed above, the City has continued to apply for additional federal and state funding sources for the Project. Based on the current approved Federal Transportation Improvement Program (FTIP) funding allocations, the Project is set to complete final design within the next 18 months and begin construction at the beginning of the 22/23 Fiscal Year. Failure to advance the Project could jeopardize tens of millions in secured grant funds as well prevent the future successful solicitation of grant funds.

ATTACHMENTS:

1. Resolution No. 2021-33 – Resolution of Necessity