



REPORT TO CITY COUNCIL

DATE: APRIL 9, 2014

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER 
CANDICE K. LEE, CITY ATTORNEY
MICHAEL F. YOSHIBA, EMINENT DOMAIN ATTORNEY

SUBJECT: CONSIDERATION OF ADOPTION OF RESOLUTION OF NECESSITY FOR THE ACQUISITION IN EMINENT DOMAIN, OF CERTAIN REAL PROPERTY FOR PUBLIC PURPOSE, NAMELY TWO PERMANENT EASEMENTS FROM THE PROPERTY IDENTIFIED AS LOS ANGELES COUNTY ASSESSOR'S PARCEL NO. 2061-031-020 AND LOCATED AT THE SOUTHEAST CORNER OF AGOURA ROAD AND KANAN ROAD IN THE CITY OF AGOURA HILLS, CALIFORNIA 91301, IN CONNECTION WITH THE AGOURA ROAD WIDENING AND CANWOOD STREET IMPROVEMENTS PROJECT

I. BACKGROUND

A. Eminent Domain Process – General

Public entities can acquire property from private property owners for public use and necessity with payment of "just compensation." Cal. Const., Art I, Sect. 19. Just compensation is determined by an appraisal of the fair market value of the property sought to be acquired. Private property can be acquired by public agencies through offers of just compensation, good faith negotiation, and voluntary settlement, or the use of eminent domain powers.

If the parties are unable to reach an agreement on the terms of the acquisition, or if clear title cannot be conveyed by the property owner, then upon the expiration of the good-faith-offer period, the public entity may send out a letter to the property owner providing said owner with a Notice of Hearing to Consider Adoption of a Resolution of Necessity. The public entity must provide the property owner with at least 15 days notice of the hearing. The letter must be sent by First Class mail or personal delivery to the name and address listed on the last tax assessor's roll. (Code of Civil Procedure Section 1245.235)

Prior to the hearing on the Resolution of Necessity, a Report to City Council is prepared which sets forth the purpose of the proposed acquisition, explains the CEQA

review process completed by the public entity, and establishes four elements necessary for a public entity to exercise its power of eminent domain. The public entity may exercise its power of eminent domain to acquire property for a proposed project only if all of the following are established: (a) The public interest and necessity require the project; (b) the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) the property sought to be acquired is necessary for the project (Code of Civil Procedure Section 1240.030); and (d) a written offer of just compensation, as required by Government Code Section 7267.2.

A public entity may not commence an eminent domain action until its governing body has adopted a Resolution of Necessity that meets certain statutory requirements. (Code of Civil Procedure Section 1245.220). At the hearing to consider the adoption of the Resolution of Necessity, the governing body must give notice to each person whose name and address appears on the last equalized county tax assessment roll notice and a reasonable opportunity to be heard. Anyone who has advised the City Clerk that they wish to be heard on the issue of the adoption of the Resolution of Necessity, or who has filed written objections, may be heard (Code of Civil Procedure Section 1245.235(b) (3)). Although this is not a true "public hearing", public entities may allow anyone who wants to speak on the adoption of the Resolution of Necessity to do so.

A Resolution of Necessity adopted by the governing body of the public entity as previously described, conclusively establishes the four findings referenced above (Code of Civil Procedure Section 1245.250(a)). If the Resolution of Necessity is approved, the public entity will concurrently authorize the City Attorney's office and City staff to take all necessary steps to deposit with the State Treasurer's Office the amount of probable compensation required by law for issuance of an Order for Possession, including complaints in condemnation.

B. Proposed Resolution of Necessity for the Agoura Road Widening and Canwood Street Improvements Project before City Council

The City of Agoura Hills ("City"), through its City Council has before it a Resolution of Necessity to acquire two permanent easements from the property identified as Los Angeles County Assessor's Parcel No. 2061-031-020 and located at the southeast corner of Agoura Road and Kanan Road in the City of Agoura Hills, California 91301 in connection with the proposed Agoura Road Widening and Canwood Street Improvements Project ("Project"). The real property interests sought for the Project are sought for a public use, namely for utility relocation, road widening and street improvement purposes, and all purposes necessary and convenient thereto in connection with the Project pursuant to the authority conferred upon the City to acquire property by eminent domain by California Government Code Sections 37350, 37350.5, 37351, 40401 and 40404 and California Code of Civil Procedure Section 1230.010, *et seq.* (Eminent Domain Law), including, but not limited to Sections 1240.010, 1240.020,

1240.110, 1240.120, 1240.150, 1240.410, 1240.510, 1240.610, 1240.650, and other provisions of law.

The Project would widen various areas along Agoura Road between the westerly City limits and Cornell Road and will create a total of four (4) lanes of vehicular travel, bike paths on both sides of Agoura Road, landscaped medians, sidewalks with landscaped parkways, hardscape for the Agoura Village Specific Plan Project Area and undergrounding of utilities. As shown more fully below, the Project is consistent with the General Plan of the City and is required for the public health and safety because it will improve vehicular traffic circulation and safety, improve pedestrian safety, alleviate the anticipated unacceptable levels of traffic congestion, and maintain traffic circulation at the standard set forth in the City's Circulation Element.

II. DESCRIPTION OF PROJECT AND ENVIRONMENTAL REVIEW

The City is advancing improvement for the Project. The City is the lead agency for this Project and is undertaking this Project to alleviate congestion, improve operations, reduce accident rates, improve pedestrian safety, and provide for future increases in traffic volumes.

Agoura Road will be widened in areas between the westerly City limits and Cornell Road. Improvements to Kanan Road are also proposed between approximately 500 feet north of the Agoura Road/Kanan Road intersection and 1600 feet south of the Agoura Road/Kanan Road Intersection. Additional improvements along Canwood Street are proposed as part of the Project from, approximately, Reyes Adobe Road to Strawberry Hill Drive, north of U.S. 101. Most of the Project would be within existing City right-of-way; however, additional frontage area on private parcels along Agoura Road would be required, which would necessitate acquisition of the land area by the City. Other parcels would be affected by the Project for grading and driveway reconstruction, or accessed temporarily during construction.

The 2010 City General Plan identifies the need for further improvements along both Agoura Road and Kanan Road. These improvements include the widening of Agoura Road from two to four lanes between the western City limits to Kanan Road, as well as the widening of Kanan Road between Agoura Road and the southerly City limit. The purpose of the Project is to: (1) Provide compatibility along Agoura Road between existing roadway improvements and planned development in the area; (2) Provide continuity along Kanan Road between roadway segments north and south of Agoura Road; (3) Ensure compatibility between the proposed Agoura Road and Kanan Road widening improvements; (4) Increase accessibility and safety for pedestrians and bicyclists along the Agoura Road corridor; and (5) Maintain Canwood Street and stabilize the hillside between Canwood Street and U.S. 101.

The City proposes to widen Agoura Road to its ultimate build-out width within the City limits. The Project would include widening the existing roadway from two to four

lanes from the westerly City limits to just west of Reyes Adobe Road, and, again from Ladyface Court to Kanan Road. For the segment between Reyes Adobe Road and Ladyface Court, there would only be a pavement overlay. The roadway would remain a two-lane facility from Kanan Road to Cornell Road, with the addition of diagonal parking spaces on both sides of the road.

Improvements at the Agoura Road/Kanan Road intersection would also be conducted, including widening Kanan Road between Agoura Road and 500 feet north and 1600 feet south of the intersection, and widening Agoura Road approximately 600 feet on either side of the intersection to allow for turning movements. Beyond these limits, Kanan Road would remain a two-lane facility.

The Project would include constructing a Class II bike lane and curb/gutters on both sides of Agoura Road, installing landscaped medians, and meandering sidewalks with landscaped parkways, as outlined in the Agoura Village Specific Plan and Agoura Hill's General Plan. A second pedestrian-only bridge over Medea Creek would be constructed as a separate structure adjacent to the roadway bridge.

Most of the widening would occur within existing City right-of-way; however, additional frontage area on private parcels along Agoura Road would be required, which would necessitate acquisition of the land area by the City. Other parcels would be affected by the Project for grading and driveway reconstruction, or accessed temporarily during construction.

In addition to improvements on Agoura Road, the Project would also include repaving Canwood Street from Reyes Adobe Road to Forest Cove Lane, and repairing pavement and stabilizing a portion of the hillside along Canwood Street from Forest Cove Lane to approximately 650 feet east of Forest Cove Lane. Further, the undergrounding of existing utilities will be implemented.

The Project traffic flow improvements were found to be compatible with the health, safety, and welfare of the community and in conformance with the City's General Plan and Circulation Element.

The Project was found to be compatible with surrounding land uses. The Project was determined to not have an adverse effect on the overall community because it remains consistent with the goals and policies of the General Plan and Circulation Element. All of these proposed road widening and street improvements are part of the Project.

The potential environmental effects of the Project were studied and analyzed in connection with the Initial Study/Environmental Assessment of the Agoura Road Widening and Canwood Street Improvements and related reports. In December 2012, the City Council approved the findings contained in the Mitigated Negative Declaration ("MND") for the Project. The MND was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines and relevant provisions of CEQA of 1970,

as amended. An MND may be used to satisfy the requirements of CEQA when a Project would have no significant effects on the environment that cannot be mitigated. The MND found that implementation of the Project would not result in any significant effects on the environment that cannot be reduced to below a level of significance with the mitigation measures included herein.

Upon completion of the issuance of the Mitigated Negative Declaration and following the expiration of the 30-day public comment period pursuant to Section 15105 of the CEQA Guidelines, the City Council, on December 19, 2012, approved Resolution No. 12-1693 adopting the final Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Agoura Road Widening and Canwood Street Improvements Project.

The City General Plan, Circulation Element, the Mitigated Negative Declaration, Initial Study/Environmental Assessment, Project Study Reports, exhibits to these documents and all documents referenced therein, the proposed right-of-way maps, and aerial maps of the Subject Property Interests are on file in the City's Planning Department, and are incorporated in this Report by this reference.

The Project will require the relocation of utilities that are located in the Subject Property Interests. The public use for which the City seeks to acquire the Subject Property Interests, namely utility relocation, street purposes and all uses necessary or convenient thereto, is either a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650, or a joint compatible use within the meaning of Code of Civil Procedure Section 1240.510, than the uses to which public utility easement holders have appropriated those utility easements, which are located in the Subject Property Interests and are affected by the Project. Negotiations with the utility companies will continue past an adoption of a Resolution of Necessity.

III. DESCRIPTION OF SUBJECT PROPERTY INTERESTS

The real property that is the subject of the Resolution of Necessity is necessary for the Project. The "Subject Property Interests" the City seeks to acquire for the Project are described as follows:

Portions of the real property located on the southeast corner of Agoura Road and Kanan Road, Agoura Hills 91301 (Assessor's Parcel Number 2061-031-020), consisting of two permanent easements (155 square feet and 100 square feet) (Shuman Associates, LLC).

Legal descriptions of the real property interests the City seeks to acquire for the Project are attached as Exhibits to the Resolution of Necessity. Maps depicting the location of the real property interests the City seeks to acquire in relation to the Project are attached to the Resolution of Necessity as Exhibits. The Resolution and the respective Exhibits are incorporated in this Report by this reference.

IV. REQUISITES FOR ADOPTION OF RESOLUTION OF NECESSITY

In order to adopt each Resolution of Necessity with respect to the Subject Property Interests, the City Council must, separately and individually, find and determine with respect to (Code of Civil Procedure Section 1245.230) the proposed acquisition that:

- A. The public interest and necessity require the Project;
- B. The Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury;
- C. The Subject Property Interests described in the Resolution of Necessity are necessary for the Project; and
- D. The City has made an offer, as required by Government Code Section 7267.2, to the owner of record of the real property it seeks to acquire.

The amount of just compensation is not an issue before the City Council at this hearing. This hearing relates only to issues A, B, C, and D above.

V. FINDINGS AND DETERMINATION RE CODE OF CIVIL PROCEDURE SECTION 1245.230

A. The Public Interest and Necessity Require the Project

As shown above, the Project would alleviate present and future traffic congestion, improve operations, reduce accident rates, improve pedestrian safety, and provide for future increases in traffic volumes.

Specifically, the Project would widen Agoura Road in areas between the westerly City limits and Cornell Road. Improvements to Kanan Road are also proposed between approximately 500 feet north of the Agoura Road/Kanan Road intersection and 1600 feet south of the Agoura Road/Kanan Road Intersection. Additional improvements along Canwood Street are proposed as part of the Project from, approximately Reyes Adobe Road to Strawberry Hill Drive, north of U.S. 101. Most of the Project would be within existing City right-of-way; however, additional frontage area on private parcels along Agoura Road would be required, which would necessitate acquisition of the land area by the City. Other parcels would be affected by the Project for grading and driveway reconstruction, or accessed temporarily during construction.

The 2010 City General Plan identifies the need for further improvements along both Agoura Road and Kanan Road. These improvements include the widening of Agoura Road from two to four lanes between the western City limits to Kanan Road, as well as the widening of Kanan Road between Agoura Road and the southerly City limit. The purpose of the Project is to: (1) Provide compatibility along Agoura Road between

existing roadway improvements and planned development in the area; (2) Provide continuity along Kanan Road between roadway segments north and south of Agoura Road; (3) Ensure compatibility between the proposed Agoura Road and Kanan Road widening improvements; (4) Increase accessibility and safety for pedestrians and bicyclists along the Agoura Road corridor; and (5) Maintain Canwood Street and stabilize the hillside between Canwood Street and U.S. 101.

The City proposes to widen Agoura Road to its ultimate build-out width within the City limits. The Project would include widening the existing roadway from two to four lanes from the westerly City limits to just west of Reyes Adobe Road, and, again from Ladyface Court to Kanan Road. For the segment between Reyes Adobe Road and Ladyface Court, there would only be a pavement overlay. The roadway would remain a two-lane facility from Kanan Road to Cornell Road, with the addition of diagonal parking spaces on both sides of the road.

Improvements at the Agoura Road/Kanan Road intersection would also be conducted, including widening Kanan Road between Agoura Road and 500 feet north and 1600 feet south of the intersection, and widening Agoura Road approximately 600 feet on either side of the intersection to allow for turning movements. Beyond these limits, Kanan Road would remain a two-lane facility.

The Project includes constructing a Class II bike lane and curb/gutters on both sides of Agoura Road, installing landscaped medians, and meandering sidewalks with landscaped parkways, as outlined in the Agoura Village Specific Plan and Agoura Hill's General Plan. A second pedestrian-only bridge over Medea Creek would be constructed as a separate structure adjacent to the roadway bridge.

Most of the widening occurs within existing City right-of-way; however, additional frontage area on private parcels along Agoura Road would be required, which would necessitate the acquisition of the land area by the City. Other parcels would be affected by the Project for grading and driveway reconstruction, or temporary access during construction.

In addition to improvements on Agoura Road, the Project would also include repaving Canwood Street from Reyes Adobe Road to Forest Cove Lane, and repairing pavement and stabilizing a portion of the hillside along Canwood Street from Forest Cove Lane to approximately 650 feet east of Forest Cove Lane. Further, the undergrounding of existing utilities will be implemented.

These improvements would help to ensure safe traffic circulation on Kanan Road and, thus, minimizing unacceptable congestion and unsafe conditions that would result absent the Project. The Project traffic flow improvements were found to be compatible with the health, safety, and welfare of the community and in conformance with the City's General Plan and Circulation Element.

Further, the Project is consistent with the City's General Plan and Circulation Element and is required for the public health and safety because it will alleviate anticipated unacceptable levels of traffic congestion and maintain traffic circulation at the standard set forth in the Circulation Element of the General Plan. The Project would ensure that vehicles are able to circulate in a safe manner, including emergency vehicles vital to the public health and safety.

The Project is necessary to reduce the existing and anticipated transportation and traffic congestion impacts on Agoura Road, one of the main arterials in the City of Agoura Hills. The improvements on Agoura Road and the surrounding streets described above are necessary to achieve the traffic and circulation goals identified above, including improving the flow of traffic. Thus, the Project benefits the City as a whole. The Project also ensures that other goals of the Circulation Element are met, including the goal of improving traffic flow within the interchange to accommodate additional through movement lanes and to improve visibility at congested intersections.

The Project requires the relocation of utilities that are located in the Subject Property Interests. The public use for which the City seeks to acquire the Subject Property Interests, namely relocation of utility improvements, street purposes and all uses necessary or convenient thereto, is either a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650, or a joint compatible use within the meaning of Code of Civil Procedure Section 1240.510, than the uses to which public utility easement holders have appropriated those utility easements, which are located in the Subject Property Interests and are affected by the Project.

B. The Project is Planned and Located in the Manner that will be Compatible with the Greatest Public Good and Least Private Injury

As shown in detail above, the Project would widen Agoura Road from two to four lanes between the western City limits to Kanan Road, as well as widen Kanan Road between Agoura Road and the southerly City limit. The Project will provide improved traffic circulation, provide additional parking, increase accessibility and safety for pedestrians and bicyclists, and stabilize the hillside between Canwood Street and U.S. 101.

The City proposes the use of temporary construction easements for the Project as well as permanent easements from private property owners. Permanent and temporary construction easements allow the affected private property owners to retain their principal ownership following the use of their property for the Project. The City has made every effort to reduce the number of partial fee acquisitions needed for the Project.

The Project has been designed so that most of land needed is within existing City right-of-way. However, additional frontage area on private parcels along Agoura Road will be required. Some parcels will be affected by the Project for grading and driveway

reconstruction, or will be accessed temporarily during construction. The Project cannot be constructed without the acquisition of the Subject Property Interests:

Portions of the real property located on the southeast corner of Agoura Road and Kanan Road, Agoura Hills 91301 (Assessor's Parcel Number 2061-031-020) consisting of two permanent easements (155 square feet and 100 square feet) (Shuman Associates, LLC).

The Project requires the relocation of utilities that are located in, on, and above the Subject Property Interests. The public use for which the City seeks to acquire the Subject Property Interests, namely interchange improvement purposes, utility relocation, and all uses necessary or convenient thereto, is either a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650, or a joint compatible use within the meaning of Code of Civil Procedure Section 1240.510, than the uses to which public utility easement holders have appropriated those utility easements, which are located in the Subject Property Interests and are affected by the Project.

C. The Subject Property Interests Described in The Resolution of Necessity Are Necessary For The Project

As explained above, the construction of the Project in the manner proposed requires the acquisition of the Subject Property Interests for the construction of the road widening and street improvement project.

D. The City Has Made Offer Required by Section 7267.2 of the Government Code to the Owner of Record of the Real Property the City Seeks to Acquire

As explained more fully above, the City, pursuant to Government Code Section 7262 *et seq.*, obtained a fair market value appraisal of the Subject Property Interests, set just compensation in accordance with the appraised fair market value, and extended a written offer to the following record owner of the Subject Property Interests: Shuman Associates LLC.

True and correct copies of the offer letter is on file in the City's Public Works Department, and are incorporated in this report by this reference. As explained more fully above, the City received no response from the property owner. Because no negotiated purchase has been consummated, the schedule for the Project requires that the City Council consider the proposed Resolution of Necessity at this time. City staff is continuing its attempts at negotiations with the record owner.

VI. FISCAL IMPACT

The potential fiscal impact of adoption of the Resolution of Necessity may equal the sum of the aforementioned offers of just compensation. Based upon the offer of just compensation, acquisition of the Subject Property Interests will cost approximately

\$7,000 plus an undetermined amount of legal fees and costs as necessary to accomplish the acquisition. The estimated just compensation, costs and fees may increase based upon future negotiated settlements or following the results of a jury verdict or an award by the court.

RECOMMENDATION

It is recommended the City Council:

1. Open and conduct a hearing on the adoption of the proposed Resolution of Necessity, receive from staff the evidence stated and referred to in this Report to City Council, take testimony from any person wishing to be heard on issues A, B, C, and D below, and consider all evidence to determine whether to adopt the proposed Resolution of Necessity, of which requires the City Council's consideration and determination that the following four findings have been established:

- A. The public interest and necessity require the Project;
- B. The Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury;
- B. The Subject Property Interests described in the Resolution of Necessity are necessary for the Project; and
- D. The City has made an offer as required by Government Code Section 7267.2 to the owner of record of the real property it seeks to acquire.

2. Consider the Resolution of Necessity of the City Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition thereof in connection with the Agoura Road Widening and Canwood Street Improvements Project:

3. If the City Council finds, based upon the evidence contained and referred to in this Report, the testimony and comments received at this hearing, and all written testimony submitted to the City Council, that the evidence warrants the necessary findings with respect to the proposed Resolution of Necessity, then staff recommends that the City Council, in the exercise of its discretion, adopt proposed Resolution No. 14-1744, (of which requires a 4/5ths vote of the entire Council) and authorize the City Attorney's office to file eminent domain proceedings to acquire the following real property interests:

Portions of the real property located on the southeast corner of Agoura Road and Kanan Road, Agoura Hills 91301 (Assessor's Parcel Number 2061-031-020) consisting of two permanent easements (155 square feet and 100 square feet) (Shuman Associates, LLC).

The Subject Property Interests are described more particularly in the Exhibits attached to the Resolution of Necessity. The Resolution also contains a drawing depicting the location of the real property interests in relation to the Agoura Road Widening and Canwood Street Improvements Project. The Resolution and the Exhibits are attached hereto and incorporated in this Report by this reference.

4. If the Resolution of Necessity is approved, authorize the City Attorney's office and City staff to take all necessary steps to deposit with the State Treasurer's Office, the amount of probable compensation required by law for issuance of an Order for Possession, including complaints in condemnation.

5. Authorize the City Manager to execute all necessary documents.

Attachments: Resolution No. 14-1744
Notice of Proposed Eminent Domain Proceeding and of Opportunity to be Heard

RESOLUTION NO. 14-1744

A RESOLUTION OF NECESSITY OF THE CITY OF AGOURA HILLS, CALIFORNIA, DECLARING CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR PUBLIC PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF, IN CONNECTION WITH THE AGOURA ROAD WIDENING AND CANWOOD STREET IMPROVEMENTS PROJECT - SOUTHEAST CORNER OF AGOURA ROAD AND KANAN ROAD, AGOURA HILLS, CALIFORNIA, ALSO IDENTIFIED AS ASSESSOR'S PARCEL NUMBER 2061-031-020

THE CITY OF AGOURA HILLS HEREBY RESOLVES AS FOLLOWS:

Section 1. The City of Agoura Hills is a municipal corporation in the County of Los Angeles, State of California.

Section 2. The real property interest described in Section 3 of this Resolution is to be taken for a public use, namely for the Agoura Road Widening and Canwood Street Improvements Project ("proposed Project"), utility relocation and all uses necessary or convenient thereto pursuant to the authority conferred upon the City of Agoura Hills to acquire property by eminent domain by California Constitution Article 1, Section 19, California Government Code sections 37350, 37350.5, 37351, 37353, 40401, 40404 and 54031 and California Code of Civil Procedure section 1230.010, *et seq.*, including, but not limited to sections 1240.010 through 1240.050, 1240.110, 1240.120, 1240.410, 1240.510, 1240.610, 1240.650, and other provisions of law.

Section 3. The real property interests sought to be taken are two permanent easements over a portion of the fee on the property located at the southeast corner of Agoura Road and Kanan Road, Agoura Hills, California, also identified as Los Angeles County Tax Assessor's Parcel Number 2061-031-020 ("Subject Property Interests"). The legal description of the Subject Property Interests is attached as Exhibit "A" to this Resolution and the Subject Property Interests are depicted on the diagrams attached as Exhibit "B-1" and "B-2" to this Resolution. Said Exhibits are incorporated herein by this reference. The Subject Property Interests are required for the Agoura Road Widening and Canwood Street Improvements Project.

Section 4. In December 2012, the City Council approved the findings contained in the Mitigated Negative Declaration ("MND") for the Agoura Road Widening and Canwood Street Improvement Project ("Project"). The MND was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines and relevant provisions of CEQA of 1970, as amended. A MND may be used to satisfy the requirements of CEQA when a proposed project would have no significant effects on the environment that cannot be mitigated. The MND found that implementation of the proposed Project would not result in any significant effects on the environment that

cannot be reduced to below a level of significance with the mitigation measures included herein.

Staff, in connection with the proposed Resolution of Necessity, has reviewed all of the environmental documentation prepared on the proposed Project, and pursuant to the criteria of Section 15162 of the California Environmental Quality Act Guidelines and Section 21166 of the Public Resources Codes, Staff concluded that there have been no substantial changes in the proposed Project, nor the circumstances surrounding the proposed Project, nor has the City obtained any new information of substantial importance that would require further environmental review.

The environmental findings in connection with the proposed Project are the same environmental findings for the proposed acquisition of the Subject Property Interest. The City Council finds that there is no substantial evidence that the proposed Project, including the proposed acquisition, will have a substantial environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community Development and are in the custody of the Director of Planning and Community Development.

Section 5. The real property interests sought to be acquired are currently undeveloped and unimproved. The proposed Project will not unreasonably interfere with or impair the continuance of any existing public or private use, or as the public use may reasonably be expected to exist in the future, as allowed pursuant to Code of Civil Procedure Section 1240.510.

Section 6. The proposed Project may require the relocation of utilities that are located on the Subject Property Interests. The public use for which the City seeks to acquire the Subject Property Interests, namely for road widening and street improvement purposes, and all uses necessary or convenient thereto, are either a more necessary public use within the meaning of Code of Civil Procedure section 1240.650, or a joint compatible use within the meaning of Code of Civil Procedure section 1240.510, than the uses to which public utility easement holders, and the general public have appropriated those utility easements, which are located on the Subject Property Interests and are affected by the Project. Negotiations with the public utility easement holders are ongoing.

Section 7. Pursuant to California Government Code Section 7262 *et seq.*, the City obtained a fair market value appraisal of the Subject Property Interests that used a date of value of December 27, 2013. The City Council set just compensation in accordance with the appraised fair market value, and, in February 2014, extended a written offer to the owner of record to purchase the Subject Property Interests pursuant to Government Code Section 7267.2. The City's offer letter included an informational pamphlet describing the eminent domain process and the owner's rights. The City further offered to pay the property owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the Subject Property Interests pursuant to Code of Civil Procedure Section 1263.025.

Section 8. On March 20, 2014, the City provided written notice to the record owner of the City Council's intent to consider the adoption of the proposed Resolution of Necessity at its April 9, 2014, meeting as required by Code of Civil Procedure Section 1245.235.

Section 9. The City Council of the City of Agoura Hills hereby finds and determines that:

- A. The public interest and necessity require the proposed Project;
- B. 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. The property interest hereinabove described is necessary to carry out and make effective the principal purpose of the proposed Project;
- D. The proposed Project will not unreasonably interfere with or impair the continuance of any existing public use or as the public use may reasonably be expected to exist in the future as allowed pursuant to Code of Civil Procedure Section 1240.510; and
- E. The offer required by Section 7267.2 of the Government Code has been made to the owner of record and due diligence has been exercised in order to comply with Section 7267.2.

Section 10. The findings and declarations contained in this Resolution are based on the record before the City Council on April 9, 2014, when it adopted this Resolution, including the Agenda Statement dated April 9, 2014, all documents referenced and incorporated in the Agenda Statement, the testimony at the hearing, and the records and documents prepared in connection with the proposed Project, all of which are incorporated in this Resolution by this reference.

Section 11. The City Council of the City of Agoura Hills authorizes and directs the City Attorney's office and Staff to take all steps necessary to commence and prosecute legal proceedings in a court of competent jurisdiction to acquire by eminent domain the real property interests described in Exhibit "A" and depicted in Exhibits "B-1" and "B-2" attached hereto.

Section 12. This Resolution shall take effect upon adoption.

Section 13. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolutions of the City Council of the City of Agoura Hills.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Agoura Hills this 9th day of April, 2014, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

William D. Koehler, Mayor
City of Agoura Hills, California

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Candice K. Lee
City Attorney

NOTICE OF PROPOSED EMINENT DOMAIN PROCEEDING AND OF OPPORTUNITY TO BE HEARD

April 9, 2014, 6:00 p.m.

[ACQUISITION OF REAL PROPERTY INTERESTS, CONSISTING OF TWO PERMANENT EASEMENTS OVER A PORTION OF THE FEE ON THE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF AGOURA ROAD AND KANAN ROAD IN THE CITY OF AGOURA HILLS, CALIFORNIA 91301, AND FURTHER IDENTIFIED AS LOS ANGELES COUNTY TAX ASSESSOR'S PARCEL NUMBER 2061-031-020, FOR PUBLIC USE, NAMELY FOR THE AGOURA ROAD WIDENING AND CANWOOD STREET IMPROVEMENTS PROJECT, AND ALL USES NECESSARY AND CONVENIENT THERETO]

To All Persons Concerned:

PLEASE TAKE NOTICE that the City Council of the City of Agoura Hills intends to consider the adoption of a resolution of necessity pursuant to the provisions of the Eminent Domain Law, and in particular Article 2 of Chapter 4 of Title 7 of the Code of Civil Procedure Sections 1245.210 *et seq.*, for the acquisition by eminent domain of certain real property interests, consisting of two permanent easements (155 square feet and 100 square feet), over a portion of the fee on the property located at the southeast corner of Agoura Road and Kanan Road, in the City of Agoura Hills, County of Los Angeles, California, further identified as Los Angeles County Tax Assessor's Parcel Number 2061-031-020 ("Subject Property Interests").

The legal description of the Subject Property Interests is set forth below. Specifically, the legal description of the permanent easements sought to be acquired is attached as Exhibit "A" and depicted on the maps attached as Exhibits "B-1" and "B-2".

You have the right to appear before the City Council of the City of Agoura Hills and to be heard on the following matters pertaining to the above-stated acquisition:

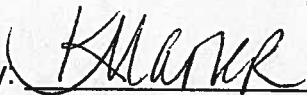
- (a) Whether the public interest and necessity require the project;
- (b) Whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property interests sought to be acquired are necessary for the project; and
- (d) Whether the offer required by Section 7267.2 of the Government Code has been made to the owner of record.

If you wish to appear and be heard, you should file a written request to be heard within 15 days after the date this notice is mailed. You should file your request at the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, California 91301, Attention: Kimberly M. Rodrigues, City Clerk.

FAILURE TO FILE A WRITTEN REQUEST TO APPEAR AND BE HEARD WITHIN 15 DAYS AFTER THE DATE THIS NOTICE IS MAILED WILL RESULT IN A WAIVER OF THE RIGHT TO APPEAR AND BE HEARD.

It is the intention of the City Council of the City of Agoura Hills to hold a hearing on April 9, 2014, at 6:00 p.m. at the City of Agoura Hills Council Chambers, 30001 Ladyface Court, Agoura Hills, California 91301.

Dated: May 20, 2014

By: 

Kimberly M. Rodrigues, MMC
City Clerk

EXHIBIT "A"

**LEGAL DESCRIPTIONS OF PERMANENT EASEMENTS
20-PE-SCE1, 20-PE-SCE2**

OWNER: SHUMAN AND ASSOCIATES

SCE EASEMENT

A.P.N.: 2061-031-020

DESCRIPTION

THAT PORTION OF LOT "H", DOLORAS VEJAR 634.38 ACRE ALLOTMENT OF THE RANCHO LAS VIRGENES, IN THE CITY OF AGOURA HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP OF THE PART OF SAID RANCHO FILED WITH THE FINAL DECREE OF PARTITION, IN CASE NO. 2898, OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF AGOURA ROAD 100 FEET WIDE, BEING THE WESTERLY TERMINUS OF THAT CERTAIN FIRST CURVE EASTERLY OF KANAN ROAD, SAID CURVE BEING CONCAVE SOUTHERLY HAVING A RADIUS OF 2947.36 FEET;

THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $01^{\circ}39'12''$ AN ARC DISTANCE OF 85.05 FEET TO THE TRUE POINT OF BEGINNING.

THENCE SOUTH 11.00 FEET;

THENCE EAST 14.00 FEET;

THENCE NORTH 11.08 FEET TO A POINT IN SAID CURVE, A RADIAL LINE TO SAID POINT BEARS NORTH $00^{\circ}12'32''$ WEST;

THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $00^{\circ}11'40''$ AN ARC DISTANCE OF 10.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 155 SQUARE FEET

TOGETHER WITH THAT PORTION OF LOT "H", DOLORAS VEJAR 634.38 ACRE ALLOTMENT OF THE RANCHO LAS VIRGENES, IN THE CITY OF AGOURA HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP OF THE PART OF SAID RANCHO FILED WITH THE FINAL DECREE OF PARTITION, IN CASE NO. 2898, OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF AGOURA ROAD 100 FEET WIDE;

ALSO BEING THE NORTHEASTERLY CORNER OF THE LAND AS DESCRIBED IN DOCUMENT RECORDED MARCH 27, 2013 AS INSTRUMENT NO. 20130455098, OF OFFICIAL RECORDS, OF SAID COUNTY;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE NORTH $87^{\circ}47'01''$ WEST 10.00 FEET;

THENCE SOUTH $02^{\circ}12'59''$ WEST 10.00 FEET;

THENCE SOUTH $87^{\circ}47'01''$ EAST 10.00 FEET;

THENCE NORTH $02^{\circ}12'59''$ EAST 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 100 SQUARE FEET

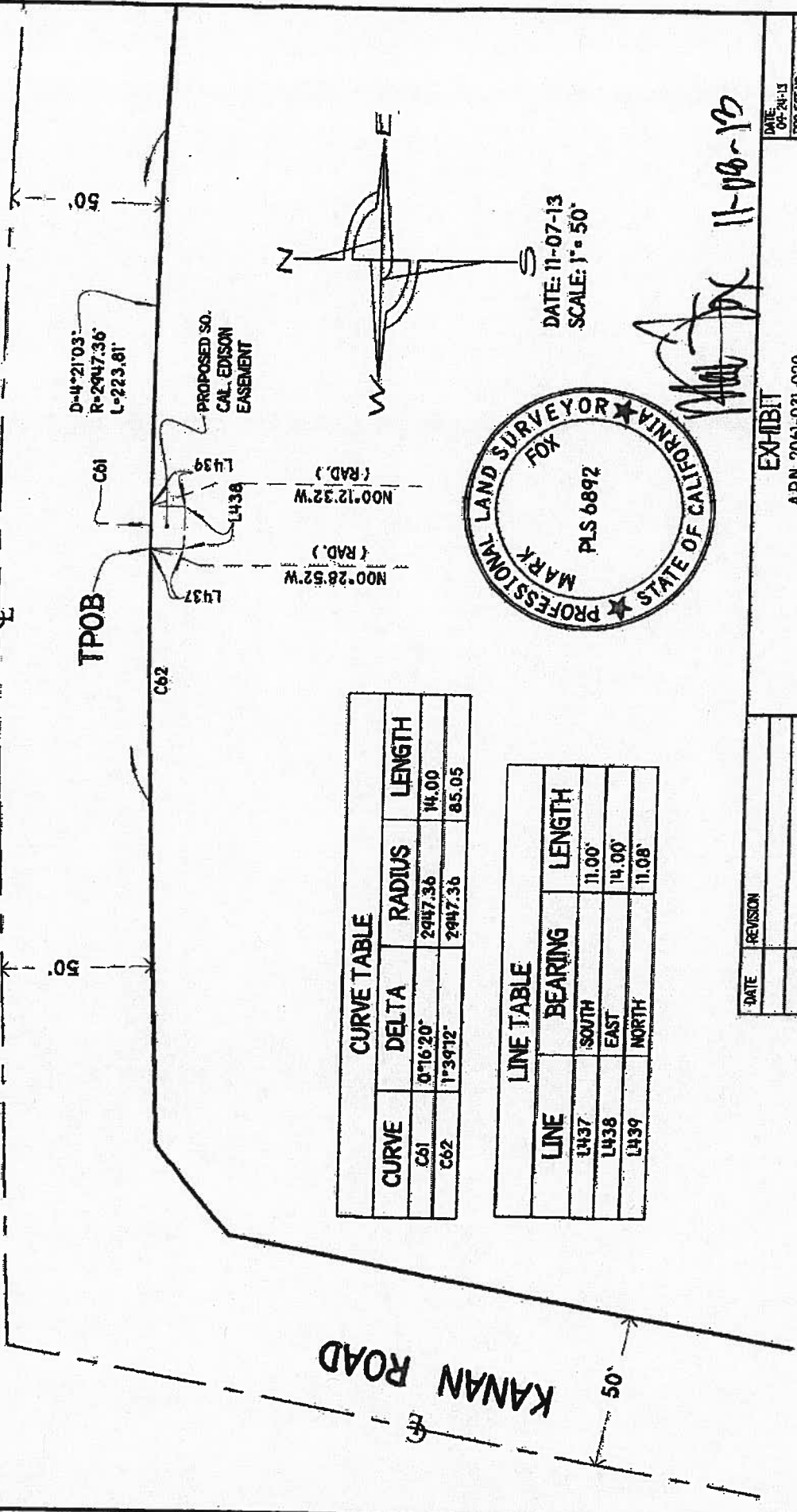


EXHIBIT "B-1"

**MAP OF PERMANENT EASEMENT
20-PE-SCE1**

AGOURA ROAD

KANAN ROAD



CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH
C61	0°16'20"	2947.36	14.00
C62	1°39'12"	2947.36	85.05

LINE TABLE

LINE	BEARING	LENGTH
L437	SOUTH	11.00'
L438	EAST	14.00'
L439	NORTH	11.08'



DATE: 11-07-13
SCALE: 1" = 50'

Mark Fox
11-108-10

DATE	REVISION

EXHIBIT
ALPN, 2061-031-020

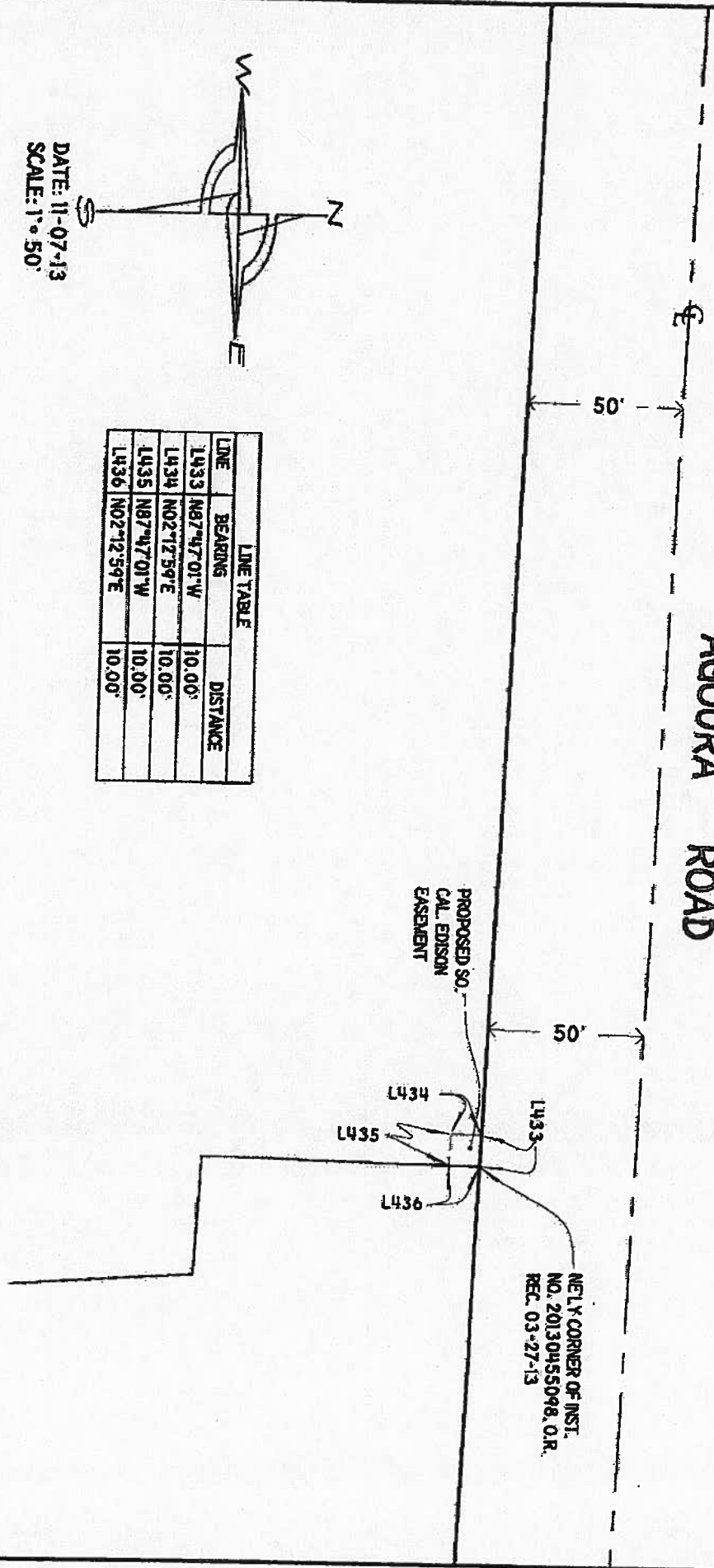
JACOBELLIS & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
SURVEY'S SUBDIVISIONS - PHOTOGRAMMETRY
1145 TAMPA AVENUE STE 15B, NORTHridge, CA 91324, PH: 818-366-9222, FAX: 818-366-4813

SHUMAN ASSOCIATES, LLC
A.P.N. 2061-031-020

EXHIBIT "B-2"

**MAP OF PERMANENT EASEMENT
20-PE-SCE2**

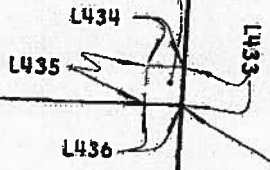
AGOURA ROAD



LINE	BEARING	DISTANCE
L433	N87°47'01"W	10.00'
L434	N02°12'59"E	10.00'
L435	N87°47'01"W	10.00'
L436	N02°12'59"E	10.00'

PROPOSED SO.
CAL. EDISON
EASEMENT

NELY CORNER OF INST.
NO. 20130455098, O.R.
REC. 03-27-13



DATE	REVISION

EXHIBIT
A.P.N. 2061-031-020

JACOBELLIS & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS

SUNNER'S SUBDIVISION - PHOTOGRAMMETRY
1115 TARA AVE STE 150, JEROME, CA 91320 PH 818-366-4222 FAX 818-366-1413

DATE:	09-24-13
PROJECT NO.:	10-101
DRAFTED BY:	AMS
CHECKED BY:	ME
SHEET NO.:	2 OF 2

A.P.N. 2061-031-020