



Board Agenda Item 65

DATE: June 22, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Table Mountain Rancheria - Release of Road Impact Fee Agreement

RECOMMENDED ACTION:

Approve and authorize Chairman to execute the Release of Encumbrance Document (Road Impact Fee Agreement for Friant and Millerton Roads) for the benefit of Table Mountain Rancheria and relating to Assessor's Parcel No. 300-210-19S, located on the South side of Millerton Road between Friant and Auberry Roads.

Approval of this action will allow the County remove a cloud on title from lands belonging to Table Mountain Rancheria (TMR) caused by Road Impact Fee Agreement No. 13-257 ("Road Agreement") (No. 2013-0136220 Original Records Fresno County), which was mistakenly recorded September 26, 2013, as shown in Exhibit A, for Assessor's Parcel No. 300-210-19S (Property). Even without being a title encumbrance, the Road Agreement will still obligate TMR to contribute funds to address off-site road impacts, as was the Road Agreement's original intent.

Removing this encumbrance from the title is necessary for TMR to move forward with transferring Title of Property to the United States Department of the Interior, so that it may hold the land in Trust for the benefit of TMR. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

Your Board may deny the recommended action identified above. Your Board may determine that the amended agreement does not adequately address TMR's obligation thus rejecting the Release of Encumbrance. This action will maintain the encumbrance on title and will hinder the ability to place the land into Trust. Denial will require your Board to identify the action or actions being denied and to direct department staff accordingly.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. If approved, TMR will continue to assume the obligation of the Road Agreement, by continuing to pay a proportionate pro rata fair share of impact fees for any new development on the property.

DISCUSSION:

On May 14, 2013, your Board approved the agreement Agenda Item No. 29 contractually obligating TMR to pay road impact fees through the Road Agreement, and released prior road impact fee encumbrances on Assessor's Parcel No. 300-210-19S, whose location is indicated in Exhibit A. The Department and TMR

entered into the Road Agreement for the specific purpose of removing two title exceptions regarding payment of road impact fees on Friant and Millerton Roads from the chain of title on APN 300-210-19S. To implement the removal of the two title exceptions, the Road Agreement provided that the County execute and record a Release of Encumbrance (Release). The Release was recorded on September 26, 2013, recorded document no. 2013-0136248 shown as Exhibit B.

In addition to the release being recorded on September 26, 2013, the underlying Road Agreement was also recorded on the same day in error. The effect of recording the Road Agreement was that an additional encumbrance was created on the title. The title company will not release the title without a separate release from the County for the recorded agreement.

Staff have evaluated this proposal and have determined that the recommended action would be an acceptable method of removing the encumbrance while having TMR maintain their obligation to pay county Road Impact Fees. In reviewing this matter, Staff consulted with the Office of County Counsel.

REFERENCE MATERIAL:

BAI # 29, May 14, 2013

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits A - B
On file with Clerk- Release of Encumbrance

CAO ANALYST:

Ron Alexander