



Board Agenda Item 76

DATE: December 17, 2024

TO: Board of Supervisors

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

SUBJECT: Request by the City of Fresno to Obtain Right of Way from the County at the Fowler Avenue Bridge at Mill Creek

RECOMMENDED ACTION(S):

Adopt and authorize Chairman to execute a Resolution finding and declaring, among other things, that the County-owned interest in real property located at the Fowler Avenue Bridge over Mill Ditch, between Clinton Avenue and Olive Avenue (Fowler Avenue Bridge Right-of-Way), which is approximately 0.183 acres of land is not necessary for the County of Fresno (County) use, that the Fowler Avenue Bridge Right-of-Way is surplus land under Government Code Section 54221(b)(1), it is “exempt surplus land” because it is surplus land being transferred to another local agency - the City of Fresno (City) under Government Code Section 54221(f)(1)(D) and Government Code Section 25526.5 at no cost, and declaring your Board’s intention as to the Property that includes the following:

- A. Authorize and direct the Director of Public Works and Planning (Director) or his designee to provide a copy of the adopted Resolution and the Board-approved, but unsigned Quitclaim Deed to the California Department of Housing and Community Development, and any such other information that the Director or his designee deems necessary or appropriate and in the best interest of the County, or that Housing and Community Development may request from the County; and**
- B. Authorize Chairman, on behalf of the County, to approve and execute the final Quitclaim Deed, and such execution of such document by the Chairman only after the successful expiration of the 30-Day Housing and Community Development Waiting Period.**

The Department is returning to your Board for reapproval of this item, which your Board approved on October 11, 2022. The reasons are the original signed Quitclaim Deed was not recorded because it was unknowingly delayed in the transfer to the City and the Chairman’s signature was not notarized.

Approval of the first recommended action will function as your Board’s consent to the request by the City, dated August 9, 2022 (see Attachment A), to acquire the County’s right-of-way, at no cost, from the County, as shown in Attachment B at the Fowler Avenue Bridge Right-of-Way, as needed in conjunction with the City’s road and bridge improvements. Approval of the first recommended action would also require that your Board once again provide findings and declarations that the Fowler Bridge Right-of-Way is not necessary for County use and the property is surplus land and exempt from the provisions of the Surplus Land Act as the land is less than one-half acre in area, and the conveyance is from one local agency to another local agency.

Approval of the second recommended action would add a new step that was not undertaken the first time by your Board; that is to authorize the Director or his designee to submit a copy of the adopted Resolution and the unsigned Board approved Quitclaim Deed to the Housing and Community Development (HCD) for its review. The HCD has a 30-day waiting period in which it may decide to object to the proposed transfer. After the expiration of the waiting period if HCD does not notify the County that the proposed transfer would violate the Surplus Land Act or the HCD's guidelines then the County can convey the land.

Approval of the third recommended action will authorize the Chairman to sign the Quitclaim deed prepared by the County in order to convey the Fowler Bridge Right-of-Way to the City but to deliver the signed Quitclaim Deed to the City of Fresno only after the successful expiration of the 30-day waiting period. This item pertains to a location in District 5.

ALTERNATIVE ACTION(S):

There is no viable alternative action. If your Board does not approve the recommended action, the County will be responsible for the maintenance and upkeep of the road and bridge improvements provided by the City.

FISCAL IMPACT:

There is no change, since your Board's approval on October 11, 2022, in Net County Cost associated with the recommended actions. The County has prepared the Quitclaim Deed for the Chairman's signature, enabling the City, at no cost, to acquire public road right-of-way from the County, with no fiscal impact to the County.

The City has performed the construction work. The Department of Public Works and Planning staff has provided oversight inspection of the improvements for the work in County areas. As a result of acquiring title to the Fowler Bridge Right-of-Way, the City will assume maintenance responsibility for all improvements and maintenance.

DISCUSSION:

The recommended actions were approved by your Board on October 11, 2022, except for the added step of adopting and submitting the recommended action to HCD.

Due to unforeseen circumstances, following your Board's approval on October 11, 2022, the original signed Quitclaim Deed was not recorded following a delay in the transfer of the document to the City and the Chairman's signature not being notarized.

The Department is requesting your Board's approval of these new recommended actions to maintain the exact same record by the Clerk of the Board and the Recorder's Office, where the Quitclaim Deed would be recorded. The Department consulted with the Clerk of the Board in making this determination as to such recordkeeping.

If your Board wishes to reapprove the transfer of the property to the City, your Board must make a current finding that the property is no longer needed by the County, and the County will have to report the proposed transfer of the property to the HCD.

During the time between the previous Board approval and now, the City has completed the construction improvements on the Fowler Bridge Right-of-Way.

Fowler Avenue is designated as an "Arterial" road in the County General Plan. "Arterials" provide for mobility within the county and its cities, carrying through traffic on continuous routes and joining major traffic

generators, freeways, expressways, super arterials, and other arterials. Access to abutting private property and intersecting local streets shall generally be restricted.

In order to improve the increased traffic flow caused by urbanization in the area of Clinton Avenue and Olive Avenue, the City conducted road and bridge improvements at the Fowler Bridge Right-of-Way. While determining the logistics of this project, the City was made aware that most of the right-of-way at the location of the Fowler Bridge Right-of-Way was in the County jurisdiction. The City requested a quitclaim from the County over the right-of-way for the entire Fowler Bridge Right-of-Way.

The City will hold title to the Fowler Bridge Right-of-Way, and the City will maintain the improvements installed in the area by virtue of being the owner of the Fowler Bridge Right-of-Way. The City's letter dated August 9, 2022, (Attachment A) shows the City's willingness to perform such maintenance and acknowledgement that the County quitclaim of the right-of-way for the entire Fowler Bridge Right-of-Way to the City will allow the new improvements to the Fowler Bridge Right-of-Way to be maintained by the City. This allows the maintenance of the City's improvements to be best performed by one agency, the City.

Section 1810 of the Streets and Highways Code allows the County to consent to the acquisition of property by a city outside of its city limits when necessary to connect or widen the existing streets of the acquiring city; a County right-of-way is an interest in property.

Government Code Section 25526.5 provides that when the Board of Supervisors (Board) determines that any real property with an estimated value not exceeding \$25,000 is not required for County use..., the Board may convey that real property upon the terms and conditions approved by the Board. In this case, the property is valued at less than \$25,000 and is not required for County use because the City will construct and maintain the improvements.

The Surplus Land Act requires local agencies to make their surplus land available under certain conditions to identified public agencies for certain purposes, such as affordable housing, school use, and open space use before the local agencies dispose such surplus land.

The Surplus Land Act also lists certain types of land categories-exempt surplus land-that are not subject to the Surplus Land Act rules. Additionally, if a local agency is transferring property to another local agency, that property would be exempt surplus land per Government Code Section 54221(f)(1)(D). Under those rules, the County transferring the Fowler Bridge Right-of-Way to the City would involve exempt surplus land, and the Surplus Land Act would not apply. But the County would still report the proposed transaction to the HCD under its guidelines for surplus land transfers of exempt property.

If your Board consents to the acquisition of the Fowler Bridge Right-of-Way by the City, the acquired right-of-way becomes a city street for all purposes. The size of the parcel to be conveyed is approximately 0.183 acres. The proposed right-of-way acquisition is consistent with the need for easements sufficient to install the intersection improvements per the plans provided by the City.

Your Board's approval also authorizes the Chairman to sign the quitclaim deed, in recordable form, on behalf of the County to transfer the Fowler Bridge Right-of-Way to the City following the expiration of the HCD 30-day waiting period. The HCD has a 30-day waiting period in which it may decide to object to the proposed transfer. After the expiration of the waiting period if HCD does not notify the County that the proposed transfer would violate the Surplus Land Act or the HCD's guidelines then the County can convey the land.

OTHER REVIEWING AGENCIES:

The recommended actions were initiated at the request of the City of Fresno.

REFERENCE MATERIAL:

BAI #36, October 11, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - City of Fresno Request

Attachment B - Right-of-Way Acquisition Plan

On file with Clerk - Resolution Declaring County-Owned Property Exempt Surplus Land

On file with Clerk - Quitclaim Deed

CAO ANALYST:

Salvador Espino