



County of Fresno

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Legislation Details (With Text)

File #: 16-0965

On agenda: 8/9/2016

Final action: 8/9/2016

Enactment date:

Enactment #: Resolution No. 16-323

Title: Adopt Resolution authorizing the Director of the Department of Public Works and Planning to execute all documents and to negotiate and pay such damage deposit, not to exceed \$10,000, as may be required to obtain access to lands held in trust by the United States Bureau of Indian Affairs to the extent such access is required for the Bald Mill Creek on Jose Basin Road Bridge Replacement Project

Attachments: 1. Agenda Item, 2. Location Map, 3. Resolution No. 16-323

Date	Ver.	Action By	Action	Result
8/9/2016	1	Board of Supervisors	Approved (Consent Agenda)	Pass

DATE: August 9, 2016

TO: Board of Supervisors

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

SUBJECT: Bald Mill Creek on Jose Basin Road Bridge Replacement Project

RECOMMENDED ACTION(S):

Adopt Resolution authorizing the Director of the Department of Public Works and Planning, or his designee, to execute all documents and to pay a deposit which shall not exceed \$10,000 as required to obtain access to perform a land survey, various environmental and engineering studies, and an appraisal on lands held in trust by the United States Bureau of Indian Affairs to the extent that such access is required for the Bald Mill Creek on Jose Basin Road Bridge Replacement Project.

Approval of the recommended action will authorize the Director of the Department of Public Works and Planning (Director), or his designee, to execute documents and pay a deposit on behalf of the County as required to access the site of a bridge replacement project which is located on land held in trust by the Bureau of Indian Affairs (BIA).

ALTERNATIVE ACTION(S):

If the recommended action is not approved, the Department of Public Works and Planning (Department) would return to your Board with an agenda item to authorize the Chairman of the Board of Supervisors to execute various documents. Also, at such time when the exact amount of the deposit has been determined, the Department will return to your Board to approve the deposit and to approve an application for permission to survey for right-of-way.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The Highway Bridge Program (HBP) Provides 100 percent of funds necessary for the project, and any funds deposited with the BIA which are not

returned to the County will be reimbursed by the HBP.

DISCUSSION:

The Bald Mill Creek Bridge on Jose Basin Road was constructed in 1947. The bridge deck is only wide enough for one lane of travel and the bridge is in need of replacement. The property upon which the bridge is located is held in trust by the BIA. It is necessary to access the bridge site to perform a land survey, various environmental and engineering studies, and an appraisal. Title 25, Part 169 of the Code of Federal Regulations (CFR) states procedures that must be followed when requesting access to land held in BIA trust. On top of the requirement set by the CFR, BIA requires that an individual be designated to act as the applicant's representative and to sign all documents related to access to the property.

There are six co-owners of the property in question and it is required that their permission to access the land be solicited. Once permission to access the property has been granted by individuals who collectively own at least 80 percent of the property, an application to survey must be submitted to the BIA. The application must be accompanied by a deposit which is double the amount of estimated damages which may occur as a result of the survey. The amount of the deposit has yet to be determined by the BIA.

In general, the resolution recommended for approval authorizes the Director, or his designee, to execute all documents, correspondence, applications, agreements, certificates, affidavits, and other instruments as necessary to obtain access to BIA Trust Land to perform a land survey, various environmental and engineering studies, and an appraisal as necessary for the bridge replacement project.

Additionally, the resolution authorizes the Director, or his designee, to pay a deposit to the BIA, not to exceed \$10,000, to cover potential damages associated with access to the property. In the event that the deposit exceeds \$10,000, the Department will return to your Board for approval of the additional deposit. If the deposit is not expended for damages, the remaining amount will be held by the BIA and will be used to offset a future deposit that will be required when the process to purchase easements commences.

Upon approval of the resolution, the Department will:

- Solicit permission from the individual property owners to access their property.
- Negotiate and pay a deposit as required by the BIA in an amount not to exceed \$10,000.
- File an application for permission to survey for right-of-way with the BIA.
- File an applicant's certificate to certify the accuracy of the land survey.
- File an engineer's affidavit which attests to the accuracy of the survey.

The application for permission to survey for right-of-way includes indemnification language and the resolution requires that documents which require indemnification be reviewed and approved by County Counsel prior to approval by the Director. In addition, any actions that involve payment of the deposit will be reviewed and approved by the Auditor-Controller/Treasurer-Tax Collector before approval by the Director.

Once permission to access the property has been granted by the BIA, the survey and various studies will be performed. At such time as the environmental process for the project has been completed, an appraisal will be conducted and the Department will return to your Board for approval of an application for grant of easement for right-of-way.

REFERENCE MATERIAL:

BAI #58, October 28, 2014

ATTACHMENTS INCLUDED AND/OR ON FILE:

Location Map
On File with Clerk - Resolution

CAO ANALYST:

John Hays