



County of Fresno

Hall of Records, Rm. 301
2281 Tulare Street
Fresno, California
93721-2198

Legislation Details (With Text)

File #: 19-0110 **Name:** Resolution of Necessity to facilitate the Travers Creek Bridge Replacement Project on Parlier Avenue

In control: Public Works & Planning

On agenda: 5/7/2019 **Final action:** 5/7/2019

Enactment date: **Enactment #:**

Title: Conduct public hearing to consider adoption of Resolution of Necessity, per California Code of Civil Procedure, section 1245.210 et seq., authorizing eminent domain proceedings and deposit of funds (\$7,800) with State of California - Condemnation Deposit Fund, to facilitate Travers Creek Bridge Replacement on Parlier Avenue, Federal Project No. BRLO-5942(227) (4/5 vote)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Exhibit A, 3. Exhibit B, 4. Location Map, 5. Resolution of Necessity, 6. Affidavit of Mailing

Date	Ver.	Action By	Action	Result
5/7/2019	1	Board of Supervisors		

DATE: May 7, 2019

TO: Board of Supervisors

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

SUBJECT: Resolution of Necessity to facilitate the Travers Creek Bridge Replacement Project on Parlier Avenue

RECOMMENDED ACTION(S):

Conduct a public hearing to consider the adoption of a Resolution of Necessity, per California Code of Civil Procedure, section 1245.210 et seq., authorizing eminent domain proceedings and the deposit of funds (\$7,800) with the State of California - Condemnation Deposit Fund, to facilitate the Travers Creek Bridge Replacement on Parlier Avenue, Federal Project No. BRLO-5942(227) (4/5 vote).

Approval of the recommended action would allow your Board to consider whether the findings can be made for the adoption of the proposed resolution. If the findings are made, the resolution will authorize and direct County Counsel to institute eminent domain proceedings, pursuant to Government Code, section 25350.5, Streets and Highways Code, section 943, and California Code of Civil Procedure, section 1230.010, et seq. The proposed resolution would also authorize and direct the Auditor-Controller/Treasurer-Tax Collector to deposit funds (\$7,800) with the State of California - Condemnation Deposit Fund, to acquire necessary real property interests to facilitate the Travers Creek Bridge Replacement Project on Parlier Avenue. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

Not approving the recommended action will result in cancellation of the project and de-obligation of the

allocated Federal funding. Any funds received by the County for this project to date would require reimbursement to the Federal Highway Administration from the Road Fund.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. A warrant or check in the amount of \$7,800, or lesser amount as certified by the Director of the Department of Public Works and Planning, or designee, will be issued from the Department's - Roads Org 4510, made payable to the State of California - Condemnation Deposit Fund, on behalf of the individual property owners listed in Exhibit A. This project is eligible for 100% reimbursement under the Federal Highway Bridge Program (HBP). Funds for the necessary parcel are included in the Road Fund 0010, Subclass 11000. Sufficient appropriations are included in the Department's Org 4510 FY 2018-19 Adopted Budget.

The total estimated compensation (\$7,800) pursuant to the recommended action is for a permanent roadway easement.

DISCUSSION:

On April 9, 2019, the Board adopted Resolution No. 19-119, setting the public hearing for May 7, 2019 at 9:00 a.m., or as soon thereafter as practicable. During the hearing, your Board will consider the adoption of a Resolution of Necessity for condemnation as required by California Code of Civil Procedure, section 1245.210 et seq. The resolution is required precedent to the commencement of eminent domain proceedings to meet construction commitments for the Travers Creek Bridge Replacement Project (Project) on Parlier Ave. If approved, the proposed resolution will authorize and direct County Counsel to institute eminent domain proceedings to acquire certain real property interests, and the Auditor-Controller/Treasurer-Tax Collector's Office to issue a check, in the amount of \$7,800, for deposit in the State of California - Condemnation Deposit Fund.

The Project would allow replacement of the functionally obsolete two-lane concrete slab bridge, with a two-lane concrete box culvert with approach railings.

The Project requires real property interests from portions of four parcels; all but one permanent easement have been acquired through negotiation.

On April 12, 2018, the parcel owner of the remaining partial acquisition was presented a written offer of \$7,800 based on an independent appraisal. On June 19, 2018, the Department's on-call Real Property Consultant contacted the parcel owner over the phone whom expressed concern over the valuation of the fence on his property. The owner stated he would like the County to replace the fence instead of reimbursing its value. The Consultant discussed payment for the fence with the Department then made six attempts to re-contact the owner by phone between June 26, 2018 and August 21, 2018 and was able to speak to the owner on August 23, 2018. The Consultant informed the owner that without a payment for the fence, the County's offer would be \$1,873, to which the owner stated he would not agree to anything over the phone. Since the August 23, 2018 conversation, the Consultant made five attempts to re-contact the owner by phone with the last attempt on October 29, 2018. On December 4, 2018, the Consultant mailed a revised and final offer to the owner that did not include a payment for the fence; the letter explained that the owner still had the option to take the original offer. At the Department's request, the Consultant mailed the owner an impasse letter on January 18, 2019. On February 1, 2019, the Department's Real Property Agent attempted to contact the owner and left a voicemail requesting a call back, the Agent sent an email on same date to the owner that there is an option to provide a bid for the fence if the owner believes the appraiser's valuation was incorrect. However, all attempts to contact the owner by phone have been unsuccessful since the last conversation on August 23, 2018 with the Consultant.

The eminent domain process cannot proceed unless your Board approves the recommended action. To

provide such approval, your Board must make the following findings:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property sought to be acquired, as described in the resolution, is necessary for the proposed project.
- That the offer required by Section 7267.2 of the Government Code has been made to the owners of record of the real property, which is the subject of the proposed Project.

The Department asserts and recommends that such findings would be accurate and appropriate. Your Board is authorized to acquire real property interests by eminent domain pursuant to California Government Code, Section 25350.5, California Streets and Highways Code, Section 943, and California Code of Civil Procedure, Section 1230.010, et seq.

Provided your Board adopts the Resolution of Necessity, Real Property staff will continue efforts to reach a mutually satisfactory agreement with the property owners during eminent domain proceedings.

The name and address of the property owner(s) subject to the public hearing, to consider the adoption of a Resolution of Necessity, as required by law, precedent to the commencement of eminent domain proceedings are included in Exhibit A. The property owner(s) identified in Exhibit A were mailed a Notice of the public hearing, including the date, time, and location of the hearing. The location of the property to be acquired is shown on Exhibit B, and the general location of the Project is shown on the location map.

It is important to note that, in accordance with applicable codes and regulations, the hearing is expressly not for consideration of matters involving compensation. Although property owners who attend may wish to discuss compensation and related issues, it is recommended that your Board limit the discussion strictly to the validity of the findings stated above.

Construction is anticipated to commence as early as spring 2020; however, the project will be delayed until possession can be attained.

REFERENCE MATERIAL:

BAI #43, April 9, 2019
BAI #48, October 23, 2018
BAI #56, August 7, 2018
BAI #44, December 3, 2013
BAI #55, March 13, 2007

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Exhibit B
Location Map
On file with Clerk - Resolution
On file with Clerk - Affidavit of Notice

CAO ANALYST:

Sonia M. De La Rosa