County of Fresno

Hall of Records, Rm. 301
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Fresno, California
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Legislation Details (With Text)

File #:	19-1194	**Name:**	Resolution of Necessity for Travers Creek Lincoln
		In control:	Public Works & Planning
On agenda:	11/5/2019	**Final action:**	11/5/2019
Enactment date:		**Enactment #:**	Resolution No. 19-415

Title: Conduct public hearing to consider adopting Resolution of Necessity, per California Code of Civil Procedure, Section 1245.230, authorizing eminent domain proceedings and deposit of funds ($7,500) with State of California - Condemnation Deposit Fund, to facilitate Travers Creek Bridge Replacement on Lincoln Avenue, Federal Project No. BRLO-5942(226) (4/5 vote)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Exhibit A, 3. Exhibit B, 4. Location Map, 5. Resolution No. 19-415, 6. Affidavit of Mailing

Date	Ver.	Action By	Action	Result
11/5/2019	1	Board of Supervisors	Conducted Hearings	Pass

DATE: November 5, 2019

TO: Board of Supervisors

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

SUBJECT: Public Hearing to consider adopting a Resolution of Necessity to facilitate the Travers Creek Bridge Replacement Project on Lincoln Avenue

RECOMMENDED ACTION(S):

Conduct a public hearing to consider adopting a Resolution of Necessity, per California Code of Civil Procedure, Section 1245.230, authorizing eminent domain proceedings and the deposit of funds ($7,500) with the State of California - Condemnation Deposit Fund, to facilitate the Travers Creek Bridge Replacement on Lincoln Avenue, Federal Project No. BRLO-5942(226) (4/5 vote).

This public hearing will allow your Board to consider whether the findings can be made for the adoption of the proposed resolution. If the findings are made, the proposed 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., to acquire necessary real property interests to facilitate the Travers Creek Bridge Replacement Project on Lincoln Avenue (Project). The proposed resolution would also authorize and direct the Auditor-Controller/Treasurer-Tax Collector to deposit funds ($7,500) with the State of California - Condemnation Deposit Fund, however, the hearing is not for consideration of matters involving compensation. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

Your Board may reject the adoption of the Resolution. Rejecting the adoption of the Resolution will prevent

the County from obtaining possession of the necessary road easement to proceed with the Project. If possession of the necessary road easement is not obtained, the Project will be cancelled and will result in the 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. The total estimated cost for real property interests subject to a proposed resolution is $7,500. The 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 and estimated revenues are included in the Department of Public Works and Planning's Org 4510 FY 2019-20 Adopted Budget.

Warrants or checks in the amount of $7,500, or lesser amount as certified by the Director of Public Works and Planning, or his designee, will be issued from the Public Works and Planning 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, attached.

DISCUSSION:

On October 8, 2019, your Board adopted Resolution No. 19-1042, setting the public hearing for November 5, 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 1245.230. The resolution is required precedent to the commencement of eminent domain proceedings to meet construction commitments for the Project. 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 $7,500, for deposit in the State of California - Condemnation Deposit Fund.

The Project would allow replacement of the structurally deficient wooden two-lane bridge on Lincoln Avenue, with a new two-lane concrete box culvert that meets current standards. The Project requires real property interests from portions of five parcels; all but one permanent easement have been acquired through negotiation.

In May 2019, an appraisal was obtained by a third party consultant of the 0.072-acre parcel that complied with all statutory requirements and based on which just compensation for the subject property was established. The just compensation established and the offer were equal to the appraisal amount of the subject property.

On May 31, 2019, the initial offer ($7,500) was made to the vested owners of the remaining parcel, which represented the full amount of the approved and reviewed appraisal. The Department's Real Property Agent made several follow-up efforts to settle with the owners. On June 14, 2019, one of the vested owners contacted the Department's Real Property Agent and stated they would not sell or sign anything to the County.

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 real property interests described in the Resolution are necessary for the proposed project.

- The offer required by section 7267.2 of the Government Code has been made to the owners of record of the property which is the subject of real property acquisition associated with the proposed Project.

The Department asserts and recommends that such findings would be accurate and appropriate. Your Board is authorized to acquire certain 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.

Upon your Board's adoption of the Resolution of Necessity, the Department's 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 each of the property owners subject to today's public hearing to consider the adoption of a Resolution of Necessity, as required by law, precedent to the commencement of eminent domain proceedings are shown on Exhibit A, attached. The property owners 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 is shown on Exhibit B, attached. 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.

REFERENCE MATERIAL:

BAI #50, October 8, 2019
BAI #08, March 12, 2019
BAI #34, February 12, 2019
BAI #45, October 23, 2018
BAI #47, August 21, 2018
BAI #36, August 25, 2015
BAI #34, September 17, 2013

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