



County of Fresno

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Legislation Text

File #: 18-1488, **Version:** 1

DATE: January 8, 2019

TO: Board of Supervisors

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

SUBJECT: Right of Way Transfer Agreement with California High Speed Rail Authority for
Construction Package 2-3

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a Right-of-Way Transfer Agreement with the California High Speed Rail Authority for the transfer of right-of-way as required for Construction Package 2-3 of the High Speed Rail Project (\$0); and**
- 2. Authorize the Director of the Department of Public Works and Planning, or designee, to accept and approve in writing, on behalf of the County, minor changes to Exhibit A of the Right-of-Way Transfer Agreement for Construction Package 2-3 of the High Speed Rail Project to reflect final transfers.**

Approval of the first recommended action will authorize execution of a Right-of-Way Transfer Agreement with the California High Speed Rail Authority (HSRA), providing the framework for the Department of Public Works and Planning and HSRA interaction for the terms of a series of right-of-way transfers. Approval of the second recommended action will authorize the Department Director, or designee, to approve in writing, on the County's behalf, changes to only the right-of-way transfers shown in Exhibit A. The changes would be as necessary to reflect the final transfers of right-of-way, consistent with anticipated minor changes to the final design, as it develops over the course of the design-build High Speed Rail Project. This item pertains to locations in Districts 1 and 4.

ALTERNATIVE ACTION(s):

If your Board determines the Right-of-Way Transfer Agreement should not be approved, performance of the parties' obligations under the existing Cooperative Agreement No. 13-767/HSR 13-54 with the HSRA will be delayed as to that portion of Construction Package 2-3 (CP 2-3) within the County's jurisdiction.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The valuation of the right-of-way interests being transferred between the parties will be valued at a later date and expected to be equivalent in terms of their functionality and value. Because the right-of-way interests to be conveyed to the County are still in the process of being negotiated by HSRA, their valuation for accounting purposes is capable of determination only after they have been acquired by HSRA. Associated Department staff costs are funded by Reimbursement Agreement No. 13-766/HSR 13-56, executed December 10, 2013. Sufficient appropriations and estimated revenues are included in the Department's Road Fund - Org 4510 FY 2018-19 Adopted Budget.

DISCUSSION:

On December 10, 2013, the Board approved Cooperative Agreement No. 13-767/HSR 13-54, and a Reimbursement Agreement No. 13-766/HSR 13-56 between the County and HSRA. The Cooperative Agreement established procedures between the parties and how payments will be made by HSRA and received by the County. The Cooperative Agreement also defined the task order process and activities associated with each task order. The Reimbursement Agreement allowed the County to be reimbursed by the HSRA for services performed related to the Cooperative Agreement and prior rights verification of impacted County right-of-way interests. According to the Cooperative Agreement, Section 4 of Appendix A, whenever the County's roads fall within the HSRA's right-of-way, HSRA and the County shall jointly execute an agreement for common use of the subject area. It further provides for appropriate replacement rights when existing County right-of-way is impacted by necessary relocation of County facilities. By entering into the Right-of-Way Transfer Agreement, HSRA and the County agree and consent to the transfer of right-of-way for the intersecting roadways, as delineated in Exhibit A.

The Right-of-Way Transfer Agreement addresses the applicable process for the County's relinquishment of existing right-of-way in certain County roads, which will be effectively offset by HSRA's transfer of "replacement" right-of-way. The Right-of-Way Transfer Agreement preliminarily addresses the County's acceptance of ownership and maintenance over each of the relocated or reconstructed County roads, subject to the provisions of the separate Ownership and Maintenance Agreement that is in the final stages of negotiation between the parties. The Right-of-Way Transfer Agreement also addresses the disposition of any excess land that remains at the conclusion of the construction. Because construction of the High Speed Rail Project is being performed pursuant to a design-build contract, HSRA is unable to definitively determine the ultimate footprint of any structures at this time; therefore, HSRA is requesting authorization for the Department Director, or designee, to make minor modifications to Exhibit A. Without the authorization, Department staff would be required to bring before the Board all minor changes. Even with the authorization, if any significant deviation from Exhibit A is proposed, Department staff will bring the changes to the Board for review and approval.

The Right-of-Way Transfer Agreement is strictly for the authorization of transfers of real property interests, as necessary to facilitate construction of the High Speed Rail Project. Prior to acceptance of any constructed improvements, Department staff will present, for the Board's review and approval, the Ownership and Maintenance Agreement, which will address reimbursement for any maintenance done on behalf of HSRA, as well as the ongoing maintenance of any facilities built during construction.

CP 2-3 will require the relocation, realignment, cul-de-sac, construction, and/or removal of following avenues, as each will be intersected by the proposed High Speed Rail corridor: Lincoln, Morton, Clayton, Adams, Sumner, South, Manning, Springfield, Dinuba, Floral, Rose, Nebraska, Cedar, Chestnut, Maple, Mountain View, Kamm, Willow, Conejo, Topeka, Clarkson, Minnewawa, Clovis, Elkhorn, Fowler, and Davis. The Right-of-Way Transfer Agreement is required due to the proposed construction of overpasses along the corridor segment.

OTHER REVIEWING AGENCIES:

A copy of this Board Report was provided to HSRA.

REFERENCE MATERIAL:

BAI #59, September 22, 2015
BAI #52 December 10, 2013
BAI #35 August 28, 2013
BAI #11 October 11, 2011

BAI #6 September 20, 2011

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A

On file with Clerk - Right-of-Way Transfer Agreement with High Speed Rail Authority

CAO Analyst:

Sonia M. De La Rosa