



County of Fresno

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

Legislation Text

File #: 19-0367, **Version:** 1

DATE: April 9, 2019

TO: Board of Supervisors

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

SUBJECT: Adopt Resolution to Schedule a Public Hearing for Resolution of Necessity

RECOMMENDED ACTION(S):

Adopt Resolution to Schedule a Public Hearing for May 7, 2019 at 9:00 a.m., or as soon thereafter as practicable, for a Resolution of Necessity, supporting the condemnation of necessary right-of-way to facilitate the Bridge Preventive Maintenance Program Scour Mitigation Project, Federal Project ID No. BPMP-5942(240), and Notice affected property owners (4/5 vote).

Approval of the recommended action will schedule a Public Hearing For Resolution of Necessity for May 7, 2019, at 9:00 a.m., or as soon thereafter as practicable, and authorize Department of Public Works and Planning staff to give notice of the Public Hearing to the affected property owners within the limits of the Bridge Preventive Maintenance Program Scour Mitigation Project (Project). The Public Hearing will determine whether a Resolution of Necessity should be adopted to begin eminent domain proceedings to acquire the real property interests through the court action. 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. If a Public Hearing is scheduled and Resolution of Necessity adopted, the total estimated cost for real property interests is \$53,400. The right of way (ROW) phase is paid 100% from the Road Fund 0010. The funds spent on the ROW phase up to \$132,000 can be used towards the Bridge Investment Credit (BIC) program. Upon completion of the project, the credits can be used toward the local match on future bridge projects.

DISCUSSION:

The Department of Public Works and Planning proposes to conduct maintenance activities on 12 bridges as part of the BPMP. The proposed Project would extend the service life of the existing structure by installing new or repairing existing scour countermeasures and conducting other maintenance activities at each location. The Project requires the acquisition of real property interests from portions of 15 parcels, of which, 12 have been acquired through negotiations with a Department on-call Real Property Consultant.

The two parcel owners of the three remaining partial acquisitions were presented written offers based on independent appraisals; \$51,800 for two partial acquisitions to one owner and \$1,600 for the remaining partial acquisition to the second owner. The Department's on-call Real Property Consultants made several follow-up efforts to settle with the property owners without success. The property owners were advised verbally, and in writing that the County, as required by California Code, Code of Civil Procedure, Section 1263.025, will reimburse them up to \$5,000 to obtain their own independent appraisal, prepared by a licensed and qualified appraiser of their choice. To date the property owners have not presented Department staff with an appraisal for consideration. If a Public Hearing is scheduled and Resolution of Necessity adopted, Department Real Property staff will continue efforts to reach a mutually satisfactory settlement with the property owners during eminent domain proceedings.

The 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.

It is necessary to schedule a Public Hearing for your Board to consider a Resolution of Necessity, and for Department staff to mail notice of the Public Hearing to the affected property owners at the most recent Assessor's Tax Roll Mailing Address, as required by California Code of Civil Procedure, Section 1245.235, precedent to the commencement of eminent domain proceedings. Approval of the recommended action is necessary in order to meet construction commitments for the Project.

It is anticipated that construction will commence in the spring 2020; however, the Project will be delayed until possession can be obtained.

The name of the property owners, appraised values offered as just compensation, property addresses subject to the recommended resolution, and the most recent Assessor's tax roll mailing addresses are listed on Exhibit A. The locations of the properties subject to the recommended Resolution are shown on Exhibit B.

REFERENCE MATERIAL:

BAI #39, April 3, 2018
BAI #68, October 17, 2017
BAI #45, August 22, 2017
BAI #58, October 28, 2014
BAI #42, October 23, 2012

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A
Exhibit B
Location Maps
Draft Notice to Property Owners
On file with Clerk - Resolution of Intention

CAO ANALYST:

Sonia M. De La Rosa