



County of Fresno

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

Legislation Text

File #: 19-1042, **Version:** 1

DATE: October 8, 2019

TO: Board of Supervisors

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

SUBJECT: Resolution to Schedule a Resolution of Necessity Public Hearing

RECOMMENDED ACTION(S):

Adopt Resolution to Schedule a Public Hearing on November 5, 2019 at 9:00 a.m. or as soon thereafter as the matter may be heard, for a Resolution of Necessity supporting the condemnation of necessary right-of-way to facilitate the Travers Creek Bridge Replacement Project on Lincoln Avenue, Federal Project ID No. BRLO-5942 (226), and Notice Affected Property Owners (4/5 vote).

Approval of the recommended action will schedule a Resolution of Necessity Public Hearing for your Board's consideration on November 5, 2019, at 9:00 a.m. or as soon thereafter as the matter may be heard 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 Travers Creek Bridge Replacement Project on Lincoln Avenue (Project). The public hearing will determine whether a Resolution of Necessity should be adopted. The Resolution of Necessity, if adopted after the public hearing, will direct County Counsel to begin eminent domain proceedings to acquire the property rights through court action, and authorize the Auditor-Controller/Treasurer-Tax Collector to issue a check in the amount of \$7,500, made payable to the State of California - Condemnation Deposit Fund, or behalf of the property owners subject to the Resolution of Necessity. A similar action for this Project and parcel in question was considered and approved by the Board on February 12, 2019. However, due to an issue with the title and Recorder's Office discrepancy it was necessary to clear-up outstanding title issues. Further research was conducted and the title issue was resolved by having a correction deed prepared and recorded. The proposed Resolution replaces the original action on February 12, 2019 and reflects the new and correctly vested owners. 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 for a Resolution of Necessity is scheduled and adopted, the total estimated cost for real property interests is \$7,500. This project is eligible for 100% reimbursement under the Federal Highway Bridge Program. Funds for the necessary acquisition are included in the Road Fund 0010. Sufficient appropriations are included in the Department's Org 4510 FY 2019-20 Adopted Budget.

DISCUSSION:

The Project consists of replacing the Travers Creek Bridge at Lincoln Avenue, a structurally deficient wooden two-lane bridge with a new two-lane concrete box culvert bridge that meets current standards.

The Project requires the acquisition of real property interests from portions of five parcels, of which, four have been acquired through negotiations with a Department on-call Real Property Consultant.

On May 10, 2018, the property owners of the remaining partial acquisition (0.072-acres) were presented a written offer of \$7,100 based on an independent appraisal. The Department's on-call Real Property Consultants made several follow-up efforts to settle with the property owners without success. The property owners made a counteroffer of \$65,000 without justification or supporting appraisal. The property owners were advised verbally, and in writing that the County, as required by California Code of Civil Procedure, Section 1263.025, would reimburse them up to \$5,000 to obtain an independent appraisal, prepared by a licensed and qualified appraiser of their choice.

The Department's Real Property Agent commissioned another appraisal with an effective date of May 24, 2019 to acquire the property from the new and correctly vested owners.

On May 31, 2019, the three vested property owners were presented a written offer of \$7,500 based on an independent appraisal. The property owners were advised verbally, and in writing that the County, as required by California Code of Civil Procedure, Section 1263.025, would reimburse them up to \$5,000 to obtain an independent appraisal, prepared by a licensed and qualified appraiser of their choice. The Department's Real Property Agent made several follow-up efforts to settle with the property owners. Of the three vested property owners required to transfer title, one has stated they will not sell to the County.

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.

If a Public Hearing for a Resolution of Necessity is scheduled and adopted, Department Real Property staff will continue efforts to reach a mutually satisfactory settlement with the property owners during eminent domain proceedings.

The property owners' names, appraised value offered as just compensation, property address subject to the recommended resolution, and the most recent Assessor's tax roll mailing address are listed on Exhibit A. The location of the property subject to the recommended Resolution is shown on Exhibit B.

REFERENCE MATERIAL:

BAI #8, 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 - B
Location Map
Draft Notice to Property Owners
On file with Clerk - Resolution of Intention

CAO ANALYST:

Sonia M. De La Rosa