



## Legislation Details (With Text)

**File #:** 23-1908      **Version:** 3

**Type:** Agenda Item      **Status:** Approved

**File created:** 10/6/2023      **In control:** Board of Supervisors

**On agenda:** 3/5/2024      **Final action:** 3/5/2024

**Title:** Department of Transportation recommending the Board approve of the Final Passage (Second Reading) of Ordinance 5194 amending County Code section 12.08 to increase the threshold at which a Road Improvement Agreement is required from \$100,000 to \$250,000, to provide additional clarity as to the security requirements under such agreements, and to delegate authority to the Director of Transportation to execute agreements and amendments on projects in the county right-of-way with costs of up to \$1,000,000. (Cont. 2/6/2024, Item 2)

**FUNDING:** Road Fund, Developer Funded.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Historical Project Costs, 2. 2A - Counsel Approval, 3. 2B - Proposed Ordinance, 4. 2C - Proposed Ordinance (Redline), 5. 3A - Proposed Ordinance - BOS Direction, 6. 3B - Proposed Ordinance (Redline) - BOS Direction, 7. 3C - Summary Ordinance, 8. Executed Ordinance 5194

Date	Ver.	Action By	Action	Result
3/5/2024	3	Board of Supervisors	Approved	Pass
2/6/2024	2	Board of Supervisors	Approved	Pass
11/14/2023	1	Board of Supervisors	Approved	Pass

Department of Transportation recommending the Board approve of the **Final Passage** (Second Reading) of Ordinance **5194** amending County Code section 12.08 to increase the threshold at which a Road Improvement Agreement is required from \$100,000 to \$250,000, to provide additional clarity as to the security requirements under such agreements, and to delegate authority to the Director of Transportation to execute agreements and amendments on projects in the county right-of-way with costs of up to \$1,000,000. (Cont. 2/6/2024, Item 2)

**FUNDING:** Road Fund, Developer Funded.

### DISCUSSION / BACKGROUND

On February 6, 2024, the Board approved the Introduction (First Reading) of of Ordinance **5194** amending County Code section 12.08 to increase the threshold at which a Road Improvement Agreement is required from \$100,000 to \$250,000, to provide additional clarity as to the security requirements under such agreements, and to delegate authority to the Director of Transportation to execute agreements and amendments on projects in the county right-of-way with costs of up to \$1,000,000. As part of that action, the Board requested an annual report on the agreements executed under this authority; Section 12.08.155.F has been added to the proposed ordinance as directed. The Board Continued this matter to March 5, 2024 for Final Passage (Second Reading).

Consistent with Board Policy A-3, Ordinances - New or Amended, the Board provided conceptual approval on November 14, 2023 (Item 15, Legistar 23-1908 v1), to amend County code section 12.08

to increase the threshold at which a Road Improvement Agreement (RIA) is required in lieu of an encroachment permit from \$100,000 to \$250,000, to provide additional clarity as to the security requirements under such agreements, and to delegate authority to the Director of Transportation to execute agreements and amendments on projects in the county right-of-way with costs of up to \$1,000,000.

The proposed ordinance, as attached to this item, amends Section 12.08.055 of the County Code to increase the threshold at which an RIA is required from \$100,000 to \$250,000. Projects that encroach on the County right-of-way and have a total cost estimate of up to \$250,000 would apply for an encroachment permit through the usual process at the staff level; all projects over \$250,000 would be required to enter into an RIA and provide bonds as security.

Additionally, the ordinance delegates signature authority for RIAs with a total cost estimate of up to \$1,000,000 to the Director of Transportation, along with the authority to sign amendments (including but not limited to extensions of the Performance Period) and to accept the project as complete and initiate the one-year warranty period. The Board will continue to approve RIAs for projects over \$1,000,000, with all additional actions including amendments and the initiation of the warranty period also requiring Board approval, in accordance with the procedures currently in place.

New sections have been added to the County Code to clarify security requirements under RIAs. Section 12.08.156, entitled "Security to guarantee performance of the road improvement agreement," clarifies that only acceptable forms of security are Performance and Laborers & Materialsmen Bonds naming the County of El Dorado as a beneficiary, or a cash deposit in the amount of the required security to be held by the County. Section 12.08.157, entitled "Amount of security," requires that both the Performance and Laborers & Materialsmen Bonds are each valued at 100% of the estimated project cost. Section 12.08.158, entitled "Release of security," allows for the initiation of the one-year warranty period via acceptance of the project as complete by the approving authority (either the Director of Transportation or the Board of Supervisors), with the Performance Bond reduced by 90% upon acceptance and held for the duration of the warranty period. The Laborers & Materialsmen Bond is to be held for six months after acceptance, to be released in full, less any claims filed with the County.

As described during the conceptual approval, these ordinance changes will reduce the amount of staff time required to process road improvement agreements, as well as reduce the number of Board items required on such agreements. This will also lead to faster processing times on smaller projects, which will reduce impacts to developers required to perform work within the County right-of-way.

This ordinance is not a project within the meaning of the California Environmental Quality Act (CEQA) because it is a general policy or procedure within the meaning of Section 15378(b)(2), and even if it were a project, it would be exempt under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this ordinance would have a significant impact on the environment.

## **ALTERNATIVES**

The Board may provide alternate threshold amounts for the actions outlined in this proposed ordinance. The Board may opt to either increase the RIA threshold or to delegate signature authority as requested, rather than approving both recommended changes.

### **PRIOR BOARD ACTION**

As outlined in Discussion / Background section above.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

Costs associated with processing RIA agreements and amendments are borne by the developers advancing any given project, with cost recovery through County Engineer project billing. The proposed ordinance will reduce the staff time required to process projects, which may lead to reduce County Engineer revenue but will allow for an alternative workload and increased departmental effectiveness.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) The Clerk of the Board will obtain Chairs signature on the approved Ordinance.
- 2) The Clerk of the Board will publish a Summary Ordinance in the appropriate local newspaper(s) following Board approval of the Final Passage (Second Reading) of the Ordinance.
- 3) The Clerk of the Board send a copy of the fully executed Ordinance to Department of Transportation, attn: Lindsay Tallman.

### **STRATEGIC PLAN COMPONENT**

Good Governance, Infrastructure

### **CONTACT**

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Director of Transportation