



RESOLUTION NO.

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

RESOLUTION OF NECESSITY

WHEREAS, the Newtown Road Bridge at South Fork Weber Creek Replacement Project (Project) proposes improvements on Newtown Road, a major 2-lane road roadway connecting Highway 50 to Pleasant Valley Road as shown on the Transportation and Circulation Element of the County General Plan . The Project includes replacement of the existing bridge, widening approach roadway, installation of the metal beam guardrail, and construction of retaining walls & storm drainage facilities; and

WHEREAS, the primary purpose of the Project is to replace the existing single lane bridge built in 1929 and a squashed culvert scabbed on the inlet end in 1950 with a modern precast arch structure bridge. The existing bridge was classified as functionally obsolete by the California Department of Transportation on June 28, 2007 and will not pass a 50-year or 100-year hydraulic event. The Project is also anticipated to improve the traffic safety, hydraulic capacity, and roadway geometry; and

WHEREAS, the requirements of the California Environmental Quality Act (“CEQA”) for the Project have been met. On December 18, 2018, the Board of Supervisors adopted CEQA Mitigation Negative Declaration and Mitigation Monitoring & Reporting Plan, and approved the Project as described in the CEQA Initial Study/Mitigation Negative Declaration; and

WHEREAS, the County of El Dorado (“County”) seeks to acquire one fee acquisition, one slope and drainage easement, and one temporary construction easement from an unimproved parcel of 4.69 acres identified as Assessor’s Parcel Number 077-431-062, within the unincorporated area of El Dorado County.

From APN 077-431-062, the County seeks to acquire 1,114 square feet (SF) of fee simple interest for parcel 077-431-062 as more particularly described and depicted in the legal description and plat map, collectively attached hereto as Exhibit 1, and incorporated herein by reference. The County also seeks to acquire 2,031 SF as a slope and drainage easement as more particularly described and depicted in the easement language, legal description and plat map, collectively attached hereto as Exhibit 2, and incorporated herein by reference. The County also seeks to acquire 8,321 SF as a temporary construction easement as more particularly described and depicted in the easement language, legal description and plat map, collectively attached hereto as Exhibit 3, and incorporated herein by reference.

These property interests are collectively referred to herein as the “Subject Property”; and

WHEREAS, an easement in favor the Wopumnes Nisenan-Mewuk Tribe of El Dorado County (Grantee), which is not a federally or state recognized Tribe, was recorded on the property as of December 17, 2018, that covers approximately 67,811 square feet over APN 077-431-062. This easement authorizes the Grantee to do periodic inspection, maintenance and cultivation of the

vegetative landscape, and further environmental, biological and archeological study. The portion of this easement that is within the Subject Property will potentially interfere with the Project; and

WHEREAS, the County is a political subdivision of the State of California and is vested with the power of eminent domain by virtue of Article 1, Section 19 of the Constitution of the State of California, Government Code section 25350.5 which authorizes the County Board of Supervisors to exercise the powers of eminent domain necessary to carry out any of the powers and functions of the County, the California Eminent Domain Law, Part 3, Title 7, of the Code of Civil Procedure, Sections 1230.010 *et seq.*, and Streets and Highways Code section 943 which authorize the County Board of Supervisors to acquire any property necessary for the use and purposes of county highways; and

WHEREAS, pursuant to Government Code sections 7267.1 and 7267.2, the Subject Property was appraised by an independent real estate appraiser and an amount believed to be just compensation was established by the County; and

WHEREAS, a written offer for the full appraised value was sent to the owner or owners of record pursuant to Government Code section 7267.2; and

WHEREAS, a written offer included a written statement of, and summary of the basis for, the amount of the just compensation pursuant to Government Code section 7267.2; and

WHEREAS, pursuant to the provisions of Code of Civil Procedure section 1245.235, written notice has been sent by first-class mail to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll, to provide notice and a reasonable opportunity to appear and be heard before the Board of Supervisors on the following matters:

- a. Whether the public interest and necessity require the Project; and
- b. Whether said Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and
- c. Whether the Subject Property is necessary for the Project; and
- d. Whether the offer required by Government Code section 7267.2 has been made to all owners of record, unless the owner or owners could not be located with reasonable diligence.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of El Dorado, based on the staff report and other evidence presented at the hearing, hereby finds:

1. The public interest and necessity require the Newtown Road Bridge Replacement Project; and
2. The Subject Property is being acquired for a public use, namely, for the use as a County highway, and all uses necessary, incidental, or convenient thereto, and for all public purposes pursuant to the authority conferred upon the County to acquire property by eminent domain by virtue of Government Code section 25350.5, Article 1, Section 19 of the Constitution of the State of California, the California Eminent Domain Law, Part 3, Title 7, of the Code of Civil Procedure, Sections 1230.010 *et seq.*, and Streets and Highways Code section 943; and

3. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury and is comprised of features adopted after extensive study and public input; and
4. The Subject Property, specifically a fee simple interest totaling 1,114 square feet, a slope and drainage easement totaling 2,031 square feet, and a temporary construction easement totaling 8,321 square feet, all located in portions of the real property identified by Assessor's Parcel Number 077-431-062, within El Dorado County, as described and depicted in Exhibits 1, 2, and 3, are necessary for the Project; and
5. The offer required by Section 7267.2 of the Government Code has been made to all owners of record; and
6. The County has complied with all requirements set forth in Government Code section 7267.2; and
7. The requirements under the California Environmental Quality Act have been satisfied; and
8. Insofar as any portion of the Subject Property has heretofore been appropriated for public use, the Subject Property is being acquired for a compatible public use under Code of Civil Procedure section 1240.510 in that County's use of the Subject Property will not unreasonably interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future, and alternatively, for a more necessary public use under Code of Civil Procedure section 1240.610 in that County's use of the Subject Property is a more necessary public use than the use to which the Subject Property is appropriated; and
9. The County has complied with the provisions of Code of Civil Procedure section 1245.235 by providing each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in Code of Civil Procedure section 1240.030; and

BE IT FURTHER RESOLVED that outside counsel, Burke, Williams & Sorensen is hereby authorized, with assistance of County Counsel, to proceed immediately with the commencement of an action for eminent domain pursuant to the Eminent Domain Law set forth in the Code of Civil Procedure, commencing with Section 1230.010 *et seq.*, for the acquisition of the Subject Property described and depicted in Exhibits 1, 2, and 3 attached hereto; and

BE IT FURTHER RESOLVED that Burke, Williams & Sorensen is hereby authorized and direct to make application to the Court for an Order for Possession Before Judgment in these Proceedings; and

BE IT FURTHER RESOLVED that the County Auditor Controller is hereby authorized and directed to draw its warrant in the amount of , the warrant to be made payable to the State Treasury Condemnation Fund and delivered to Burke, Williams & Sorensen, to be deposited with the payee as security for the Order for Possession Before Judgment authorized.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the ____ day of _____, 20__, by the following vote of said Board:

Attest:
Kim Dawson
Clerk of the Board of Supervisors

Ayes:
Noes:
Absent:

By: _____
Deputy Clerk

_____ Chair, Board of Supervisors