



RESOLUTION NO. 177-2020

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

RESOLUTION OF NECESSITY

WHEREAS, the Diamond Springs Parkway Project is part of the Transportation and Circulation Element of the County General Plan consisting of a future four-lane divided roadway connecting Missouri Flat Road to State Route 49 (SR-49). The Diamond Springs Parkway Project includes realignment and widening of SR-49 between Pleasant Valley Road and Bradley Drive;

WHEREAS, Phase 1B of the Diamond Springs Parkway Project (the "Project") will construct a 4-lane minor arterial from a new Missouri Flat Road intersection south of Golden Center Drive to a new intersection at SR-49 south of Bradley Drive. The Project connects to the SR-49 prior improvements constructed in Phase 1A to create a continuous 4-lane roadway corridor with multimodal features from the intersection at Fowler Lane/SR-49 all the way to U.S. Highway 50. The Project includes new traffic signals at the intersections of Missouri Flat Road, Throwita Way and SR-49. Multimodal transportation features include Class II bike lanes, sidewalk, and transit bus turnouts on both sides of the Project;

WHEREAS, the primary purpose of the Project is to improve traffic safety and operations on SR-49 and Missouri Flat Road in the vicinity of Diamond Springs. This existing corridor suffers from a higher than average number of traffic delays and traffic accidents. The Project will relieve traffic congestion and provide an acceptable level of service through the historic town of Diamond Springs consistent with the County General Plan. The Project is also anticipated to improve pedestrian safety, access to existing businesses, and reduce vibration and noise through the Diamond Springs historic district. Aesthetic improvements to the area include the undergrounding of existing overhead utilities, vintage style street light fixtures, and a sierra drystack stone surface treatment on retaining walls;

WHEREAS, the requirements of the California Environmental Quality Act ("CEQA") for the Project have been met. In May 2011, the Board of Supervisors certified the Final Environmental Impact Report and approved the Diamond Springs Parkway Project. In January 2016, the County circulated for public comment the Draft Supplement to the Diamond Springs Parkway Project 2011 Environmental Impact Report for Phase 1B Design Modification, which proposed modifications to Phase 1B of the Diamond Springs Parkway Project. In May 2016, the Board of Supervisors adopted the Final Supplement to the Diamond Springs Parkway Project 2011 Environmental Impact Report for Phase 1B Design Modification, and approved the Project;

WHEREAS, it has been determined that a fee simple interest in portions of the real property identified by Assessor's Parcel Number 327-270-003-000, located at Diamond Springs Parkway, Diamond Springs, CA 95619, within El Dorado County, as more particularly described and depicted in Exhibits "A" and "B", incorporated herein by reference ("Subject Property"), is necessary for the Project, will result in a maximum benefit to the Project, at the most reasonable cost, and with the least interference as possible to private property rights, and that there is no other reasonable, permissible location configured for the Project;

WHEREAS, it is necessary and desirable for the County to acquire the Subject Property for the Project;

WHEREAS, the County of El Dorado 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, and by virtue of California Code of Civil Procedure sections 1240.050, 1240.110, 1240.120, 1240.410, 1240.510, and 1240.610 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;

WHEREAS, Code of Civil Procedure section 1240.410 authorizes the County to acquire any portion of the Subject Property described as an uneconomic remnant by eminent domain in accordance with that article;

WHEREAS, the Subject Property is being acquired for a compatible public use under Code of Civil Procedure section 1240.510 in that the County's use of the Subject Property will not unreasonably interfere with or impair any 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 the County's use of the Subject Property is a more necessary public use than any public use to which the property is appropriated;

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;

WHEREAS, a written offer for the full appraised value was sent to the address that was listed on the last equalized county assessment roll, pursuant to Government Code section 7267.2, but the offer was returned as undeliverable because the corporation listed as the owner of the Subject Property, El Dorado County Industrial Development Corporation, Inc. ("Owner"), has been dissolved since 1978;

WHEREAS, research has determined that there is no listed agent for service of process for Owner, and that all officers and directors of Owner are deceased;

WHEREAS, the owner or owners of the Subject Property cannot be located with reasonable diligence, and therefore the amount of just compensation could not be offered pursuant to Government Code section 7267.2;

WHEREAS, since the owner or owners of the Subject Property cannot be located with reasonable diligence, written notice has been mailed to the address listed on the last equalized county assessment roll, posted on the Subject Property, published on the Press Release page of the County's website, and printed in the Mountain Democrat newspaper, to provide notice and a reasonable opportunity to appear and be heard before the Board of Supervisors to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the County of El Dorado's last equalized roll, on the following matters:

- a. Whether the public interest and necessity require the Project;
- 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;

- 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 Phase 1B of the Diamond Springs Parkway Project;
2. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
3. The Subject Property is necessary for the Project;
4. The offer required by Section 7267.2 of the Government Code has not been made because the owner cannot be located with reasonable diligence;
5. The County has complied with all requirements set forth in Government Code section 7267.2;
6. The requirements under the California Environmental Quality Act have been satisfied;
7. The Subject Property is being acquired for a compatible public use under Code of Civil Procedure section 1240.510 in that County's and State'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 and State's use of the Subject Property is a more necessary public use than the use to which the Subject Property is appropriated;
8. The County has complied with the provisions of Code of Civil Procedure section 1245.235 by providing reasonable written personal notice 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 notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030; and

BE IT FURTHER RESOLVED that outside counsel, Meyers Nave, 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 "A" and "B" attached hereto.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 17th day of November, 2020, by the following vote of said Board:

Attest:
Kim Dawson
Clerk of the Board of Supervisors
By: 
Deputy Clerk

Ayes: Hidahl, Frentzen, Veerkamp, Parlin, Novasel
Noes: None
Absent: None


Brian K. Veerkamp
Chair, Board of Supervisors

EXHIBIT 'A'

All that certain real property situate in the Southeast Quarter of Section 24, Township 10 North, Range 10 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of the parcel described in that certain document filed in Book 913, Page 379 in the official records of El Dorado County more particularly described as follows:

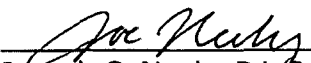
COMMENCING at a 1-1/2" Capped Iron Pipe stamped "LS 2725" marking the most northerly corner of said parcel; thence along the boundary of said parcel South 0°47'09" East, 147.19 feet to an angle point in the southerly line of the right of way granted to the Sacramento-Placerville Transportation Corridor Joint Powers Authority as described in the deeds filed in Book 4764, Pages 134 and 153 in the official records of said county and the POINT OF BEGINNING; thence leaving said boundary along said right of way line South 60°52'41" East, 69.11 feet to the centerline of a road as described in document no. 2015-54313 filed in said county; thence along said centerline the following four (4) courses: 1) South 31°38'21" West, 68.54 feet; 2) South 14°00'21" West, 75.01 feet; 3) South 7°43'16" West, 92.01 feet; 4) South 33°29'11" West, 33.32 feet to the northeasterly right of way line of Missouri Flat Road as described in the deed filed in Book 916, Page 192 as Parcel 1; thence along said northeasterly line North 54°35'56" West, 16.95 feet to the easterly line of Parcel 2 of the last said deed; thence along said easterly line North 9°24'11" East, 86.25 feet to said boundary of said parcel; thence along said boundary the following two (2) courses: 1) South 87°06'09" East, 26.84 feet; 2) North 0°47'09" West, 190.19 feet to the POINT OF BEGINNING. Containing 6,895 square feet (0.16 acres) more or less.

-End of Description-

See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid north and is identical to that shown on that particular Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said parcel as a right of way for road purposes.



Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County, Department of Transportation

Dated 10/25/19 _____



EXHIBIT 'B'

Situate in Section 24, T. 10 N., R. 10 E., M.D.M.
County of El Dorado, State of California

JOINT POWERS AUTHORITY
SAC-PLACERVILLE TRANS CORRIDOR
4764-OR-134
4764-OR-153



FEE RIGHT-OF-WAY
AREA=6,895 SQ. FT. ±
0.16 ACRES ±
EL DORADO CO.
INDUSTRIAL DEV. CO.
APN 327-270-03
O.R. 913-379

1 1/2" C.I.P. STAMPED
"LS2725" MARKING THE
MOST NORTHERLY CORNER
O.R. 913-379

POINT OF
BEGINNING

