



Legislation Text

File #: 15-0848, **Version:** 1

HEARING - Community Development Agency, Transportation Division, recommending the Board adopt and authorize the Chair to sign Resolution of Necessity **135-2015** related to the Alder Drive at EID Canal Bridge Replacement Project CIP No. 77123 authorizing the commencement of eminent domain proceedings to acquire Assessor Parcel Number 076-133-17, owned by: Earlene B. Ricketts and E. Litton Bivons, and finding that:

- 1) The Public interest and necessity require the proposed Project;
- 2) The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- 3) The Property sought to be acquired is necessary for the Project;
- 4) The Offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record, unless the owner(s) could not be located with reasonable diligence; and
- 5) Authorizing outside Counsel; Meyers-Nave, with cooperation as needed from County Counsel, to proceed with the necessary steps to acquire the required property.

Note: A 4/5 vote is required for a Resolution of Necessity. This Resolution of Necessity and the following eminent domain action is required on this parcel because the owners of record are not able to be located (see below). (Est. Time: 15 Min.)

FUNDING: Federal Highway Administration Highway Bridge Program (100%). Federal Funds)
DEPARTMENT RECOMMENDATION

The Board should open the hearing and take testimony on the aforementioned matters in consideration of adoption of the attached Resolution of Necessity. It should consider all testimony, information, and discussion, exercise its discretion and independent judgment, and if appropriate make the above findings, and adopt the attached resolution of necessity.

DISCUSSION/BACKGROUND

The Alder Drive at EID Canal Bridge Replacement Project #77123 (Project) is located north of U.S. Highway 50 on Alder Drive approximately 2.5 miles southwest of the community of Pollock Pines, in unincorporated El Dorado County. The Alder Drive Bridge was built in 1930 and is now substandard in its design and function. This Project involves replacing the existing 32-foot-long, 18-foot-wide, two-lane reinforced concrete slab bridge, with a double-barrel culvert/bridge that meets current design standards. The proposed bridge will tie in with the existing 30-foot-wide roadway providing two 12-foot traffic lanes and 3-foot shoulders on each side of the roadway. The proposed bridge will be located at the existing bridge location. All widening will occur along the eastern side of the existing roadway.

A Bridge Inspection Report conducted by Caltrans in 2011, indicates that the bridge has also exhibited evidence of girder undermining. This Report also indicates that the bridge girders were cast into the ground; however, as-built plans for the bridge are not available to confirm the bridge substructure. The bridge has a sufficiency rating of 53.2 out of a possible 100. The County has evaluated both rehabilitation and replacement options for the existing bridge and has determined that

replacement of the bridge is the most cost-effective approach for correcting the functionally obsolete status of the bridge.

The Project is anticipated to be constructed in 2016. Alder Road would be closed within the limits of the project area for approximately three months during construction. During this period, traffic would be detoured to Fern Avenue, an adjacent County road, for an approximately 0.5-mile detour.

THE SUBJECT PROPERTY

The real property proposed for acquisition consists of the fee interest in the unimproved real property identified as Assessor's Parcel Number 076-133-17, as more particularly described and depicted in Exhibits "A" and "B", located in El Dorado County and consisting of 17,914 square feet in fee (the "Subject Property"). As identified in a Title Insurance Litigation Guarantee, ownership of the Subject Property is vested in Earlene B. Ricketts and E. Litton Bivons. County Staff has determined that Earlene B. Ricketts and E. Litton Bivons are deceased, and after conducting a reasonable and diligent inquiry and search of public records, have been unable to locate any heirs and devisees. No owners of the Subject Property are listed on the last equalized County assessment roll notice.

Based on an appraisal by an independent real estate appraiser, the staff has established \$1,900.00 as the amount that is believed to be just compensation for the Subject Property. However, since the current owners could not be identified and located, no offer to purchase the property in the full amount of the approved appraisal has been made. In order to proceed with the Project, the County must move forward with an eminent domain action to acquire clear title to the Subject Property.

ENVIRONMENTAL REVIEW

Consistent with the requirements of the California Environmental Quality Act ("CEQA"), County Staff prepared and circulated an Initial Study and Proposed Mitigated Negative Declaration on the Alder Drive at EID Canal - Bridge Replacement (No. 25C0069) Project for a 30 day public review period from December 2, 2013 to January 3, 2014. Comments were received from other agencies and a local resident during the public review period, to which staff responded. On February 11, 2014, the Board of Supervisors determined that there is no substantial evidence that the Project, as mitigated, will have a significant effect on the environment and adopted the Initial Study/Mitigated Negative Declaration for the Project, and approved the Project as described in the CEQA document (Item No. 20). A Notice of Determination was filed with the County Recorder/Clerk on February 13, 2014.

All the aforementioned environmental documents are incorporated herein by reference and are on file at the Board Clerk's office for this agenda item. The Engineering drawings and construction documents for the Project are also available to the Board for its review.

STATUTORY AUTHORIZATION FOR EXERCISE OF EMINENT DOMAIN

The acquisition of private property for a public right-of-way has long been regarded as a "public use" for which the use of eminent domain is justified. The County 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, Streets and Highways Code section 943 which authorizes the County Board of Supervisors to acquire any property necessary for the use and purposes of county highways, and by virtue of California Code of

Civil Procedure sections 1240.050, 1240.110, 1240.120, 1240.150, 1240.410, 1240.510 and 1240.610.

The acquisition by eminent domain of any portion of the Subject Property constituting an uneconomic remnant is authorized under Code of Civil Procedure section 1240.410.

The Subject Property is being acquired for a compatible public use under Code of Civil Procedure sections 1240.510, in that the County's use of the Subject Property will not 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 the County's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.

Written notice of this proceeding has not been given to the owners of the Subject Property pursuant to Code of Civil Procedure Section 1245.235, because no persons are identified on the last equalized County assessment roll as owners.

ADOPTION OF THE RESOLUTION OF NECESSITY AND FINDINGS:

By adopting the proposed Resolution of Necessity, the Board of Supervisors will authorize the filing of an eminent domain action to acquire the parcel as aforementioned. Before adopting the Resolution of Necessity, the Board of Supervisors must make the following findings based on the evidence presented at the hearing:

1. The public interest and necessity require the proposed Project.

The Project will improve traffic safety conditions on Alder Drive by: (1) replacing the functionally obsolete and substandard bridge with a new structure that meets current standards, (2) correct the road geometry approaching the bridge by widening the bridge to the current road width, and (3) provide 3-foot shoulders on each side of the bridge for improved pedestrian crossing.

2. The proposed Project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury.

The proposed Project will replace the existing Alder Drive Bridge on essentially the same alignment, and will not displace any residents in the area. Nor will the Project change the amount of traffic or parking patterns in the area. The location of the proposed 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.

3. The Property Interests described in the Resolution of Necessity are necessary for the Project.

The purpose of the Project is to replace the existing Alder Drive Bridge. There is no other reasonable, permissible location suitable for replacement of the existing Alder Drive Bridge.

4. The offer required by Section 7267.2 of the Government Code has not been made because the owners cannot be located with reasonable diligence.

As identified in a Title Insurance Litigation Guarantee, ownership of the Subject Property is vested in

Earlene B. Ricketts and E. Litton Bivons, who are deceased. After conducting a reasonable and diligent inquiry and search of public records, staff have been unable to locate any heirs and devisees, and the last equalized County assessment roll notice does not list any current owners of the Subject Property. Therefore, although the Subject Property was appraised by an independent real estate appraiser, the offer required by Section 7267.2 of the Government Code has not been made.

ALTERNATIVES

N/A

OTHER DEPARTMENT/AGENCY INVOLVEMENT

Transportation has worked closely with both County Counsel and outside Counsel - Myers-Nave on this resolution.

CAO RECOMMENDATION

CAO recommending the Board move staff's recommendations by making the recommended findings and in doing so moving forward with eminent domain proceedings to complete the referenced project that is found to be in the public's best interest.

FINANCIAL IMPACT

Funding for the acquisition process is budgeted in the adopted 2015 Capital Improvement Program and will be funded through the Federal Highway Administration Highway Bridge Program. This project has no Net County Cost.

CLERK OF THE BOARD FOLLOW UP ACTIONS

1. The Clerk of the Board will obtain the Chair's signature on the Resolution.
2. The Clerk of the Board will forward a copy of the Resolution to Transportation for further processing.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

Andrew S. Gaber, Deputy Director
Development/Right of Way/Environmental
Transportation Division, Community Development Agency