



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Transportation/General Services
Department No.: 054/063
For Agenda Of: September 10, 2019
Placement: Departmental
Estimated Time: 30 Minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors
FROM: Department Directors Scott McGolpin, Director of Public Works, 568-3010
Janette Pell, Director of General Services, 560-1011
Contact Info: Chris Sneddon, Deputy Director – Transportation, 568-3064
Skip Grey, Assistant Director of General Services, 568-3083

SUBJECT: Fernald Point Lane Bridge Replacement Resolutions of Necessity, Project at Romero Creek Acquisition of Temporary and Permanent Easement – First Supervisorial District (APNs: 007-380-004, 007-380-006, 007-380-007 & -007-380-024)

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

Recommended Actions:

That the Board of Supervisors:

- a) Approve, adopt, and authorize the Chair to execute the attached Resolutions of Necessity (Attachments 3-5) for the acquisition of temporary and/or permanent easements (collectively referred to as the “Easements”) in the following real properties for the Fernald Point Lane Bridge Replacement Project at Romero Creek (the “Project”) located on Fernald Point Lane, Santa Barbara:
 - 1) APNs 007-380-004 & 007-380-024 (at or near 1745 Fernald Point Lane), which is owned by True Horizons, LLC, a Delaware Limited Liability Company, (“True Horizons”) (Attachment 3);

- 2) APN 007-380-006 (at or near 1767 Fernald Point Lane), which is owned by Linda S. Keston, Daniel E. Keston and James A. Keston Co-Trustees of the Keston Revocable Trust dated March 29, 1995 (“Keston”), (Attachment 4); and
 - 3) APN 007-380-007 (at or near 1775 Fernald Point Lane), which is owned by Kathleen S. Grassini, Trustee or any Successor Trustee, of the Kathleen S. Grassini Qualified Personal Residence Trust, udt dated July 18, 2000; Lawrence P. Grassini, Trustee or any Successor Trustee of the Lawrence P. Grassini Qualified Personal Residence Trust, udt dated July 18, 2000, (“Grassini”) (Attachment 5) (Collectively, the “Owners” and the “Properties”);
- b) Authorize the Director of Public Works, or designee, to execute any documents and to expend funds for deposit with the State Treasurer’s Office a sum equal to the Easements’ appraised fair market value, estimated at \$124,700, plus related costs and fees, in order to acquire the Easements; and
 - c) After considering the Mitigated Negative Declaration and the Mitigation Monitoring Program (15NGD-00000-00005) for the Proposed Fernald Point Lane Bridge Replacement Project at Romero Creek approved and adopted by the Board of Supervisors on June 21, 2016 and the discussion included herein, find that pursuant to State California Environmental Quality Act Guidelines Section 15162, no substantial changes are proposed, and there are no substantial changes in circumstances or new information of substantial importance regarding significant impacts or feasibility of mitigation measures and alternatives and, therefore, pursuant to Section 15162, the recommended actions are within the scope of the project covered by the MND and no new environmental document is required. The CEQA findings, and associated information can be found at:

<https://santabarbara.legistar.com/LegislationDetail.aspx?ID=2761422&GUID=94611F86-231B-4158-B304-A6309455BE3D&Options=ID|Text|&Search=Fernald>

Summary Text:

This item is on the agenda to approve the Resolutions of Necessity which are needed to facilitate the acquisition of temporary and permanent easements (“Easements”). The Easements are necessary in order to complete the Fernald Point Lane Bridge Replacement Project at Romero Creek (the “Project”) located on Fernald Point Lane, Santa Barbara. It is in the public interest and necessary to acquire the Easements in the real properties to construct, complete and maintain the Project. Proceeding under eminent domain authority is necessary at this time in order to remove the potential liabilities associated with the existing bridge structure deficiencies and to maintain the Project schedule. Negotiations would continue with the owners throughout the eminent domain process.

Background:

Fernald Point Lane is a two lane rural road that parallels the Union Pacific Railroad tracks and Highway 101 on the north and extends east from Posilipo Lane and serves local residential properties. The road ends in a cul-de-sac immediately after crossing the Fernald Point Lane Bridge that traverses Romero Creek. The County of Santa Barbara Public Works Department

Transportation Division (“Transportation Division”) has been in the process of replacing the existing Fernald Point Lane Bridge, which was built in 1959. This structure provides the only ingress and egress to the 13 residential properties over the Romero Creek. In February 2010, a Caltrans Bridge Inspection Report indicated the County should consider replacing the existing Fernald Point Lane Bridge over Romero Creek due to structural deficiencies associated with cracking of the bridge deck caused by “alkali-silica reactivity”, more commonly known as “reactive aggregate”.

The replacement bridge will improve safety and provide reliable ingress and egress to the 13 residential properties, emergency vehicles, and the public to the end of Fernald Point Lane crossing over Romero Creek. The Project also includes the construction of a new storm drain system, fish passage, and native landscaping improvements.

In order to construct a new replacement bridge and continually provide ingress and egress to the 13 residential properties, including emergency vehicles, a temporary bridge needs to be provided before demolition and construction of the replacement bridge. This requires the acquisition of a temporary construction easement. In-order to construct and maintain the new storm drain, fish passage, and native landscaping improvements, temporary construction and permanent easements are also required for the Project. Recently, while working through the project’s environmental permit application process with the Region Water Quality Control Board, it was determined that the need for a native landscaping permanent easement is no longer necessary on a portion of Assessor Parcel Number 007-380-024.

Easements

The following easements are required in True Horizons, Keston and Grassini for the Project:

- True Horizons – Temporary Bridge Construction Easement (Bridge TCE), Native Landscape and Fish Passage Permanent Easement (Landscape & Passage PE), Access Permanent Easement (Access PE), Temporary Driveway and Storm Drain Construction Easement (Driveway & SD TCE)
- Keston – Driveway Conform Temporary Construction Easement (Driveway TCE)
- Grassini – Native Landscape and Fish Passage Permanent Easement (Landscape & Passage PE)

Acquisitions

In 2017, real estate appraisals to establish the fair market value of the easements required for the Project, performed in accordance and compliance with the Federal Highway Administration, were obtained and approved. Written offers were thereafter sent to Owners.

Due to emergency events in January 2018 unrelated to the Project, this Project and other County projects were put on-hold. As a consequence, Federal Highway Administration regulations required a re-valuation of the easements being sought. The state-certified real estate appraiser

retained by County determined that the fair market value of the easements necessary to be acquired for the Project totaled \$124,700. Updated written offers were thereafter sent to the Owners.

Recently, State Highway right-of-way certification requirements have been modified related to Temporary Construction Easements (TCEs) needed for construction. As a result, the duration of the TCEs has increased causing a slight increase in the amount of compensation to be paid. The prior written offers therefore have been correspondingly increased and were sent to the Owners.

The written offers were made pursuant to Government Code Section 7267.2. This section of the Government Code encourages governmental agencies to negotiate with property owners to minimize the need for litigation.

Resolutions

The Transportation Division is required to commence and complete construction within a specific, seasonal time frame associated with Romero Creek. Discussions with the Owners will continue in order to resolve any concerns; however, these matters may not be resolved in time to meet the construction schedule. County staff will continue to work with the Owners on any unresolved matters, and it is still possible that agreements may be reached prior to completion of the condemnation proceedings.

Despite the periods of negotiations and discussions that have occurred and will continue, the parties may not be able to come to an agreement. If agreements cannot be reached, the eminent domain process would commence. Approval of the Resolutions of Necessity is the first step in this process, which will allow the Courts to determine just compensation for the Property rights to be acquired and settle any unresolved issues. A Notice of Opportunity to be Heard for this Departmental Hearing was sent to the Owners in accordance with Section 1245.235 of the Code of Civil Procedure.

Fiscal and Facilities Impacts:

The total appraised value for the Property is \$124,700. Costs for these Easements were included in the adopted FY 2019-2020 budget in the Transportation Division. The Fernald Point Lane Bridge Replacement Project at Romero Creek is included in the Five-Year Capital Improvement Program for Fiscal Year 2019-2024 on page D-118. No General Fund monies will be utilized for this project.

Funding Sources	Current FY Cost:	Annualized On-going Cost:	Total Project Cost
State: Toll Credits	\$ 14,303.00		
Federal: HBP	\$ 110,397.00		
Total	\$ 124,700.00	\$ -	\$ -

Narrative:

Funding for the acquisitions will be provided by the Highway Bridge Program (88.53%); Toll Credits would fund the remaining (11.47%) of matching funds. Funds for this project are budgeted in Department 054, Fund 0017, Organizational Unit 0600, Program 2820, and Account 8100 for the permanent easements and Account 7705 for the temporary easements.

Staffing Impacts: N/A

Special Instructions:

After Board action, please distribute as follows:

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| (1) Original Resolutions & Minute Order | Clerk of the Board |
| (2) Certified Copy of Resolutions and copy of the Resolution & Minute Order | Public Works Transportation Division
Attn: Ron Bensel |
| (3) Three (3) Certified Copies of the Resolutions and copy of the Resolution & Minute Order | General Services, Real Property Division
Attn: James Cleary |

Attachments:

1. Vicinity Map
2. Exhibit of Easements
3. Resolution of Necessity – Assessor Parcel Numbers 007-380-004 & 007-380-024
4. Resolution of Necessity – Assessor Parcel Number 007-380-006
5. Resolution of Necessity – Assessor Parcel Number 007-380-007