



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 22-207

November 22, 2022

Introduced: 11/17/2022

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Adopt a Resolution of Necessity (RON) Finding and determining that:

- a. The Public Interest and Necessity Require the Davis Road Bridge Replacement and Road Widening Project (Project).
- b. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The property sought to be acquired is necessary for the Project.
- d. Portions of the subject property may be subject to existing public uses, and the subject property is being acquired pursuant to California Code of Civil Procedure section 1240.510 for a public use set forth herein which is compatible with the existing public uses.
- e. The acquisition and public use herein described of the subject parcel will not unreasonably interfere with or impair the continuance of any possible public use as it exists or may reasonably be expected to exist in the future, as required by California Code of Civil Procedure section 1240.510.
- f. In the alternative, the subject parcel and interests therein described are being acquired pursuant to California Code of Civil Procedure section 1240.610 for a more necessary public use.

CEQA Action: An Environmental Impact Report (EIR) was certified by the Board of Supervisors for the Project on July 11, 2016. An EIR Addendum for the Project was prepared to amend the Project design details to incorporate design modifications following the Value Analysis Study Report prepared in 2017. The EIR Addendum was filed and approved by Caltrans on May 8, 2020.

Project Location: Davis Road between Blanco Road and Reservation Road, south of the City of Salinas.

Property Owners of Record: CUS Holding Trust

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution of Necessity (RON) Finding and determining that:

- a. The Public Interest and Necessity Require the Davis Road Bridge Replacement and Road Widening Project (Project).
- b. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The property sought to be acquired is necessary for the Project.
- d. Portions of the subject property may be subject to existing public uses, and the subject property is being acquired pursuant to California Code of Civil Procedure section 1240.510 for a public use set forth herein which is compatible with the existing public uses.
- e. The acquisition and public use herein described of the subject parcel will not unreasonably interfere

with or impair the continuance of any possible public use as it exists or may reasonably be expected to exist in the future, as required by California Code of Civil Procedure section 1240.510.

f. In the alternative, the subject parcel and interests therein described are being acquired pursuant to California Code of Civil Procedure section 1240.610 for a more necessary public use.

SUMMARY:

On November 8, 2022, the Board of Supervisors held a public hearing to consider adoption of a Resolution of Necessity (RON) for the acquisition of a permanent easement for a (1.207 acres) portion of APN 207-042-005 (subject property) which is owned by CUS Holding Trust (hereafter, "owner" or "CUS") (Attachment D). During the November 8 hearing on the RON, attorneys for CUS appeared before the Board to oppose adoption of the RON. The Board continued the hearing to November 22, 2022, to allow staff two weeks to discuss the items presented by CUS and to negotiate a resolution if possible.

DISCUSSION:

The Department of Public Works, Facilities, and Parks (PWFP) is proposing the DAVIS ROAD BRIDGE REPLACEMENT AND ROAD WIDENING PROJECT, COUNTY BRIDGE NO. 208, STATE PROJECT NO. 44C-0068, FEDERAL AID PROJECT NO. BRLS-5944 (068) (Project). The Project consists of replacing the existing two-lane, low-level Davis Road Bridge (Bridge No. 44C-0068) over the Salinas River with a longer bridge that meets current American Association of State Highway and Transportation Officials (AASHTO) requirements. The existing Davis Road Bridge is located approximately two (2) miles south of the City of Salinas. The Project also proposes to widen Davis Road from two (2) lanes to four (4) lanes for approximately 2.1 miles between Blanco Road on the north and Reservation Road on the south.

Permanent Roadway Easements and Temporary Construction Easements are needed from sixteen (16) adjacent properties to construct the Project. Permanent Roadway Easements and Temporary Construction Easements from six (6) of the sixteen (16) properties have been approved and the corresponding Permanent Roadway Easements have been recorded with the County Recorder. The remaining easements are under negotiation with the corresponding property owners.

The County has retained the services of Overland Pacific & Cutler, LLC., (OPC) to perform the appraisals and conduct the right-of-way negotiations for the easements. OPC staff, in consultation with Caltrans Local Assistance staff has recommended that the County adopt a RON pursuant to California Code of Civil Procedure Section 1240.030 et seq. to timely secure Project funding due to unexpected Project delays.

Due to challenges with obtaining the needed Permanent Roadway Easement, Temporary Construction Easement and Utility Easement from a portion of APN 207-042-005 owned by CUS which have resulted from the difficulty in getting CUS to respond to PWFP and OPC's communications, federal highway funding is now in jeopardy.

Adoption of a RON is a step in the eminent domain process for acquiring the easements for the subject property. Pursuant to California Government Code sections 7260 et seq., 7267.2 and 37350.5, California Code of Civil Procedure Section 1230.010 et seq. and Section 19, Article I of

the California Constitution, and other applicable authorities, the County is authorized to acquire the property by eminent domain, provided that certain procedural steps are followed.

PWFP and OPC have been in contact with the owner's representative over the past three years trying to engage the owner to sign the easement purchase agreement. However, based on recent communications with owner's representative, and lack of communication with owner, in consultation with OPC, staff determined that the only remaining option to timely obtain the necessary easements is through initiation of the eminent domain process.

Adoption of the RON is needed to timely secure grant funding for the construction of the Project. Caltrans and FHWA Program staff are requiring adoption of a RON prior to programing the estimated \$41.5 Million in Project construction funding.

On July 11, 2016, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Project and directed the former Resource Management Agency (RMA) to proceed with the Project's final design and related activities to be able to construct the Project. An EIR Addendum for the Project was prepared to amend the Project design details to incorporate design modifications following the Value Analysis Study Report prepared in 2017. The EIR Addendum was filed and approved by Caltrans on May 8, 2020. (Said EIR and Addendum are on file with the County PWFP and incorporated by this reference). The Project is scheduled to begin construction in the Spring of 2023, provided that funding is secured, and easements are obtained.

On November 8, 2022, the Board of Supervisors held a public hearing to consider adoption of the proposed RON. Attorneys for the CUS Holding Trust appeared before the Board to oppose adoption of the RON. The Board continued the hearing to November 22, 2022, to allow staff two weeks to discuss the items presented by CUS. The concerns raised by CUS holding Trust representatives centered around four (4) items which are summarized below.

Following the November 8 Board hearing, a Zoom meeting was scheduled for November 10 to commence negotiations between CUS Attorneys Gary Varga and Rick Friess and County representatives, including staff from, OPC, PWFP and the Office of the County Counsel.

During the November 10 Zoom meeting, CUS Attorney Rick Friess requested the following four (4) items:

1. Fee Title. CUS has requested fee title to the replacement property.
2. Acreage. CUS has requested "like for like" replacement acreage.
3. Survey. CUS has requested that the County stake both the areas it wants to acquire, and the area proposed by CUS in a March 2021 diagram.
4. Access. CUS has indicated that the County's proposal to supply a continuous, all-weather, gravel road under Davis Road to the Storm Ranch gate currently used by CUS to access its parcel until the County finishes the permanent access should suffice, as long as the County can assure that (i) it will maintain the access road, (ii) CUS will have unimpeded access, and (iii) there will be coordination of the various parties who will be using that road (i.e., CUS, the County's contractors, and other property owners).

The County has secured an easement replacement area, consisting of 3.185 acres, from a neighboring parcel which is greater in size than the portion of the CUS parcel (APN 207-042-005) from which the County seeks a permanent easement of 1.207 acres (Attachment D). The Project design and construction phasing allow for continuous access to CUS' property. During negotiations between CUS and OPC, CUS requested that the County obtain an easement area to replace the permanent easement property which is needed from CUS for the project. The County has negotiated the requested easement, consisting of a 3.185-acre Utility Easement from a neighboring property, in response to CUS' request for a replacement easement area. However, CUS representatives are now asking that the replacement area be transferred "in fee" and not as an easement. Staff is investigating this "in fee" option with a neighboring property owner.

The County cannot guarantee access will not be interrupted by third parties nor can the County guarantee that parties other-than-the-County will coordinate efforts. The County can only control its own actions; therefore, the following clarifying language is recommended.

Access: The County's proposal to supply a continuous, all-weather, gravel road under Davis Road to the Storm Ranch gate currently used by CUS to access its parcel until the County finishes the permanent access should suffice, as long as the County can assure that (1) it will maintain that road, (2) the County will not interrupt CUS's access, and (3) the County will coordinate with various parties who use that road (i.e., CUS, the County's contractors, and other property owners).

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved the proposed RON as to form.

FINANCING:

The Project's estimated total cost, including engineering, environmental, right-of-way and construction, is \$77.7 million. The Project is currently unfunded in the amount of \$23.9 million. Staff is actively pursuing additional funding sources to fully fund the Project before initiating the construction phase. If full funding is not obtained for the Project by the time final design has been completed, staff will analyze options for phasing the Project's construction.

Funding from various Federal, State and local revenue sources has been authorized for the design and right-of-way portion of the Project. Sufficient appropriations of \$6,554,715 are available for this Project phase in the Public Works Annual Work Program for FY 2022-23 Budget for Fund 002, Unit 8558. Therefore, there is no planned General Fund contribution for this Project.

The total estimated Project cost for the right-of-way phase of the Project is estimated at \$6.9 million. This phase of the Project is largely funded by the Federal Highway Administration (FHWA) Highway Bridge Program (HBP) in the amount of \$3.2 million. The Project is also funded by Local Funds comprised of funds from the Regional Surface Transportation Program (RSTP) and development impact fees. There are sufficient appropriations adopted in the FY 2022-23 Road Fund 002 to finance the right of way phase of the Project.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Project will replace the existing seismically deficient Davis Road Bridge with a new four (4) lane bridge that meets AASHTO and Caltrans Design Standards and widen the road to four-lanes to meet the traffic needs. The recommended action supports the following board of Supervisors' Strategic Initiative:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, and Parks

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The following attachments are on file with the Clerk of the Board:

- Attachment A - Project Budget
- Attachment B - Location Map
- Attachment C - Resolution of Necessity
- Attachment D - CUS Easement