



Legislation Details (With Board Report)

File #: A 22-209 **Name:** Approve A2 to Johnston Agreement for Purchase of Real Property

Type: BoS Agreement **Status:** Passed

File created: 5/2/2022 **In control:** Board of Supervisors

On agenda: 5/17/2022 **Final action:** 5/17/2022

Title: a. Approve Amendment No. 2 to the Agreement for Purchase of Real Property between County of Monterey and Don Keith Johnston and Susan J. Johnston, husband and wife as joint tenants (APN 424-091-019 and APN 424-091-020), to amend the Temporary Construction Easement to begin on May 1, 2020 and end on May 1, 2024 for a period of four (4) years for the construction of Nacimiento Lake Drive Bridge Project, Project No. 2202; and
 b. Authorize the Director of Public Works, Facilities and Parks to execute the Amendments to the Agreements for Purchase of Real Property on behalf of the County.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - Location Map, 3. Attachment B- Project Budget, 4. Attachment C - Johnston Purchase Agreement, 5. Attachment D - A1 to Johnston Agreement, 6. Attachment F - TCE to Don Keith and Susan Johnston, 7. Attachment E - A2 to Johnston Agreement, 8. Completed Board Order Item No. 43

Date	Ver.	Action By	Action	Result
5/17/2022	1	Board of Supervisors	approved	Pass

a. Approve Amendment No. 2 to the Agreement for Purchase of Real Property between County of Monterey and Don Keith Johnston and Susan J. Johnston, husband and wife as joint tenants (APN 424-091-019 and APN 424-091-020), to amend the Temporary Construction Easement to begin on May 1, 2020 and end on May 1, 2024 for a period of four (4) years for the construction of Nacimiento Lake Drive Bridge Project, Project No. 2202; and
 b. Authorize the Director of Public Works, Facilities and Parks to execute the Amendments to the Agreements for Purchase of Real Property on behalf of the County.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Approve Amendment No. 2 to the Agreement for Purchase of Real Property between County of Monterey and Don Keith Johnston and Susan J. Johnston, husband and wife as joint tenants (APN 424-091-019 and APN 424-091-020), to amend the Temporary Construction Easement to begin on May 1, 2020 and end on May 1, 2024 for a period of four (4) years for the construction of Nacimiento Lake Drive Bridge Project, Project No. 2202; and
 b. Authorize the Director of Public Works, Facilities and Parks to execute the Amendments to the Agreements for Purchase of Real Property on behalf of the County.

SUMMARY/DISCUSSION:

The County of Monterey Department of Public Works, Facilities and Parks (PWFP) is undergoing a project that will replace the existing single-lane Nacimiento Lake Drive Bridge with a new two (2) lane bridge. The project is located southwest of the community of Bradley, in southern Monterey County. The existing bridge was determined to be seismically deficient, and this project will replace it under the State Seismic Retrofit program.

The Agreement for Purchase of Real Property (Agreement) between the County and Don Keith Johnston and Susan J. Johnston (Grantors) was approved by the Board of Supervisors on or about December 5, 2017. The initial purchase price for the Permanent Easement and Temporary Construction Easement (TCE) was \$5,000. Said Agreement included a Temporary Construction Easement (TCE) for the purpose of providing access for construction of the project. Said TCE was initially set for a period of 24 months from the date of the deposit of funds in the full amount of the purchase price into escrow by the County of Monterey (Grantee) as documented by Chicago Title Company. The TCE provided Grantee or its authorized agent with permission to enter upon Grantor's land where necessary within that certain area identified as the TCE for the purpose of construction of the project.

Amendment No. 1 (A1) to the Agreement was approved by the Board of Supervisors on or about July 28, 2020. Pursuant to A1, the term of the TCE was for a period of twenty-four months from May 1, 2020 to May 1, 2022. An additional two-year extension of the TCE is needed for the purpose of providing access, staging, and use of equipment for the construction of the Nacimiento Lake Drive Bridge Replacement Project which includes the removal of the existing truss bridge. Proposed Amendment No. 2 to the Agreement (A2) will extend the term of the TCE to May 1, 2024. This will add an additional two years to the TCE for a total four-year term from May 1, 2020 to May 1, 2024.

The County started the construction of the Nacimiento Lake Drive Bridge Replacement project in May 2021 and has completed the construction of the bridge substructure. Construction of the project was suspended during the winter months due to restrictions listed in the regulatory permits. The beginning of the second season of the project was started on April 1, 2022, and the additional time for the TCE will be necessary to finish the project.

The County's Right of Way Specialist Bender Rosenthal Inc. (Bender Rosenthal) conducted an appraisal to determine the value of the additional two years needed for the TCE and determined that the appraised value for the two-year extension is \$700. The initial offer of \$700 was made by Bender Rosenthal to the Grantors and rejected by Grantors. During real property negotiations, a counteroffer of \$2,500 was made by Grantors as the compensation required for Grantors to sign A2 to extend the TCE for an additional two years. Approval of the proposed A2 will provide for the compensation of \$2,500 for an additional two-year extension of the TCE, to May 1, 2024.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel-Risk Management and the Auditor-Controller's Office have reviewed and approved the proposed A2 as to form and fiscal provisions respectively.

FINANCING:

The total estimated project cost, including engineering, environmental, right-of-way and construction is \$11,281,277. The estimated cost to purchase the necessary right-of-way for the project is \$467,789 which includes the right of way and TCE which were purchased by the County from Grantors pursuant to the Agreement regarding the subject property. The project is largely funded by the Federal Highway Administration (FHWA) Highway Bridge Program (HBP) in the amount of \$8,938,325. The project is also funded by State Seismic Funds, and by the Road Fund. The cost of the two-year extension for the TCE for the subject property will be covered by HBP funds. There are sufficient appropriations adopted in the FY 2021-22 Road Fund 002, Appropriation Unit PFP004 budget to finance the construction and right-of-way phase of the Project.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The project is to replace the existing seismically deficient Nacimiento Lake Drive Bridge with a new two (2) lane bridge that meets State standards. The recommended action supports the following board of Supervisors' Strategic Initiative:

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

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Reviewed by: Tom Bonigut, P.E., Assistant Director of Public Works, Facilities and Parks

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

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

Attachment A - Location Map

Attachment B - Project Budget

Attachment C - Johnston Purchase Agreement

Attachment D - A1 to Johnston Agreement

Attachment E - A2 to Johnston Agreement

Attachment F - TCE 2 - Don Keith Johnston and Susan J. Johnston