



Contra
Costa
County

To: Board of Supervisors
From: Julia R. Bueren, Public Works Director/Chief Engineer
Date: May 9, 2017

Subject: Release Agreement with Tom McMillin for the Balfour Road Shoulder Widening Project, Brentwood Area

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute on behalf of Contra Costa County (County) a Release Agreement (Agreement) with Tom McMillin to refund court filing fees in an Eminent Domain Lawsuit in connection to the Balfour Road Shoulder Widening Project. Project No.: 0662-6R4002.

APPROVE payment in the amount of \$435 and AUTHORIZE the Auditor-Controller to issue a check in said amount payable to Tom McMillin, P.O. Box 4401, Foster City, CA 94404 to be forwarded to the Real Estate Division for delivery.

FISCAL IMPACT:

100% Discovery Bay West Traffic Mitigation Funds.

BACKGROUND:

On August 29, 2016, the County filed a condemnation complaint in Contra Costa Superior Court (Case No. 16-01648), entitled

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **05/09/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 9, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Jann Edmunds, Real Estate
(925) 313-2250

By: Stacey M. Boyd, Deputy

cc:

BACKGROUND: (CONT'D)

Contra Costa County v. Ron Nunn Family, LP, et al. in connection with the County's Balfour Road Shoulder Widening Project in the Brentwood area.

The title report for the property that is the subject of the lawsuit showed that Tom McMillin had an interest in the property. Based on this information, the County included Mr. McMillin as a defendant in the lawsuit. Mr. McMillin filed an answer in the lawsuit and incurred court filing fees of \$435. After Mr. McMillin appeared in the lawsuit, it was discovered that he did not have an interest in the property and should not have been included on the title report for the property. The County has dismissed Mr. McMillin from the lawsuit.

Approval of the Agreement between Mr. McMillin and the County will allow the County to reimburse Mr. McMillin for his filing fees and avoid any delays in the lawsuit that could arise if Mr. McMillin files a request with the Court for reimbursement. In exchange for payment from the County, Mr. McMillin will not file a request for reimbursement in the lawsuit and will execute a release in favor of the County.

CONSEQUENCE OF NEGATIVE ACTION:

If the agreement is not approved, Mr. McMillin, as a dismissed party, may submit a request for fee reimbursement in the lawsuit, which could delay resolution of the lawsuit.

ATTACHMENTS

Release Agreement - Tom McMillin -Balfour Shoulder Widening, Brentwood Area