



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: February 24, 2009

Subject: Condemnation of property for widening of State Route 4 from Loveridge Road to Somersville Road, Pittsburg area. (District V) Project No. 4660-6X4184

RECOMMENDATION(S):

OPEN the public hearing and ask if any notified property owners wish to be heard on the four items specified in Section II below. CLOSE public hearing.

Following close of hearing, MAKE the findings and determinations required by Code of Civil Procedure section 1240.030 described in Section II below.

FIND that acquisition of the subject property under Streets and Highways Code Section 760 will promote the interests of Contra Costa County (County) and that acquisition has been recommended in writing by State of California, Department of Transportation (Caltrans).

ADOPT the attached Resolution of Necessity No. 2009/75 to acquire property by eminent domain.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/24/2009** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Gayle B. Uilkema, District II
Supervisor
Mary N. Piepho, District III
Supervisor
Susan A. Bonilla, 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: February 24, 2009

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

By: Katherine Sinclair, Deputy

Contact: Karen Laws,
313-2228

cc:

FISCAL IMPACT:

In eminent domain actions, the judgment will be the price paid for the property and may include court costs. Under the terms of a previously approved Cooperative Agreement among the County, Caltrans, and the Contra Costa Transportation Authority (CCTA), the County will have no responsibility to pay any of the costs or expenses related to acquisition of the property. These costs will be paid by and have been or will be allocated between Caltrans and CCTA.

BACKGROUND:

State Route 4 (SR4) East is a vital east-west transportation corridor that provides direct access from East Contra Costa County west to the greater Bay Area and east to San Joaquin County. In 1985, Caltrans suggested widening SR4 to eight lanes to improve capacity and reduce congestion. In 1988, County voters passed a local sales tax measure to fund transportation projects of this type within the County. CCTA has been implementing a roadway widening program in stages, widening SR4 East to eight lanes from the Concord area to the proposed project area.

The segment of the widening project that is the subject of this hearing consists of the widening and improving of SR4 East from west of Loveridge Road to west of Somersville Road, reconstruction of the Loveridge Road interchange, and replacement of the Century Boulevard over crossing. On June 27, 2006, the County approved the proposed project and adopted the certified Environmental Impact Report.

Caltrans has been trying to acquire land from the affected property owners by negotiation for more than a year. Some properties have been acquired through negotiation. However, Caltrans has been unable to acquire all parcels needed for the project through negotiation, and now it is time to begin relocating utilities. The purpose of this hearing is to consider the necessity of acquiring six parcels along the entire project area. The land interest to be acquired includes fee title and easements. If the Resolution of Necessity is adopted, Caltrans may proceed to acquire these parcels through the use of eminent domain.

Historically, acquisitions of real property for County road projects funded by CCTA have been handled by the Real Property Division of the County's Public Works Department. However, in 2004, Caltrans advised CCTA that it would like to participate in the acquisition process. In response to this request, CCTA agreed to have Caltrans assume responsibility for acquisition of the parcels involved in the Loveridge to Somersville project. Due to the cumbersome and time-consuming Caltrans procedures involved in adopting a Resolution of Necessity for Caltrans projects, Caltrans asked the County to consider entering into a Cooperative Agreement to allow Caltrans and the County to jointly exercise their powers of eminent domain pursuant to Code of Civil Procedure section 1240.140 and Streets and Highways Code section 760.

Code of Civil Procedure section 1240.140 allows two or more public agencies to enter into an agreement for the joint exercise of their powers of eminent domain. The Streets

and Highways code section 760 provides that if a county Board of Supervisors determines by a four-fifths vote that acquisition under the statute will promote the interests of the county and the acquisition is recommended in writing by Caltrans, the Board of Supervisors, by a four-fifths vote may acquire property needed for State highway purposes. The statute allows the title to the property to be taken in the name of Caltrans. The only action required of the Board of Supervisors under the statute is to determine whether to adopt the Resolution of Necessity and make the required findings. After that is done, Caltrans may proceed to condemn the subject real property.

By Cooperative Agreement dated August 1, 2006, the County agreed to consider adoption of one or more Resolutions of Necessity on behalf of Caltrans. The Cooperative Agreement requires Caltrans representatives to appear at the Resolution of Necessity hearings and present the proposed resolutions to the board. The Cooperative Agreement requires Caltrans and CCTA to use project funds to defend, indemnify, save, protect and hold harmless the County from loss damage or liability resulting from the County's actions under the agreement. On August 5, 2008, the County adopted Resolution of Necessity No. 2008/564 with respect to thirty-three parcels and on December 16, 2008, the County adopted Resolution of Necessity No. 2008/792 with respect to seventeen parcels on behalf of Caltrans. The proposed Resolution of Necessity will allow Caltrans to acquire six additional parcels within the project area, pursuant to the Cooperative Agreement and Streets and Highways Code Section 760, which are necessary for the project.

Caltrans has represented to County staff that the following information is true and correct.

I. Notice - Code of Civil Procedure section 1245.235 provides that the governing body of the public entity may adopt a Resolution of Necessity only after each person whose property is to be acquired by eminent domain, and whose name and address appears in the last equalized County Assessment Roll notice a reasonable opportunity to appear and be heard on the matters referred to in Code of Civil Procedure section 1240.030. Caltrans represents that on October 27, 2008, Caltrans sent by first-class mail the required notice of the Board's intent to adopt a Resolution of Necessity on December 16, 2008, at 9:30 a.m. in the Board of Supervisors' chambers and notice of the opportunity to appear and be heard on the matters referred to in Code of Civil Procedure section 1240.030.

II. Scope of Hearing Pursuant to Code Of Civil Procedure Section 1240.030

A. Public interest and necessity require the proposed project.

SR4 is the only east-west transportation corridor in this area that provides direct access from Pittsburg, Antioch, and Brentwood to the greater Bay Area to the west and a link between Contra Costa County and San Joaquin County to the east. Traffic volume on the existing roadways is beyond system capacity due to development in East County. This has resulted in severe congestion and increased travel times. Further increases in traffic volume will result in gridlock not only in the freeway system, but also in the alternative

local street network located near the congested freeway.

B. The project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

The project was designed to have as little impact as possible to the residential sites situated mainly to the south of SR4. This required the balance of the acquisition to be applied to the businesses to the north of SR4. No households will require relocation; however, there will be temporary impacts for the length of the project.

C. The properties sought to be acquired are necessary for the project.

All of the properties that are the subject of this Resolution of Necessity are directly related to the widening of SR4.

D. The offer of compensation required by section 7267.2 of the Government Code has been made to the owner or owners of record.

Caltrans made offers of compensation required by Government Code section 7267.2, based on appraisals of fair market value prepared by or on behalf of Caltrans in accordance with standard Caltrans practices, and approved by Caltrans's Deputy District Director, Right of Way, District 4.

CONSEQUENCE OF NEGATIVE ACTION:

CalTrans will not be able to acquire the property rights necessary for the project.

ATTACHMENTS

Resolution No. 2009/75

Official Resolution