



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: July 12, 2022

Subject: Resolution of Necessity Hearing for the Danville Boulevard-Orchard Court Complete Streets Improvements Project, Alamo area.

RECOMMENDATION(S):

OPEN the public hearing and ask if any notified property owners wish to be heard as to the four items specified in Section B below, CLOSE Public Hearing.

Upon completion and closing of the hearing, MAKE the findings and determinations listed under Section B below and ADOPT the attached Resolution of Necessity No. 2022/247 to acquire the required property by eminent domain. Project No.: 0662-6R4128

FISCAL IMPACT:

In eminent domain actions, the judgment will be the price paid for the property, and may include court costs that are regarded as a roughly calculable expense of property acquisition. Costs of acquisition in this case are 100% reimbursable from: 66% Highway Safety Improvement Program Cycle 8 Federal Funds, 33% Measure J Regional Funds, and 1% Local Road Funds. (DCD-CP No. 17-33)

BACKGROUND:

The Danville Boulevard-Orchard Court Complete Streets Improvements Project (the

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **07/12/2022** ☒ 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: July 12, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Jessica L. Dillingham,
925.957-2453

By: June McHuen, Deputy

cc:

“Project”) includes construction of a roundabout and sidewalk improvements at the Danville Boulevard/Orchard Court intersection, in the Alamo area of unincorporated Contra Costa County. The purpose of the Project is to improve traffic, bicycle, and pedestrian safety on Danville Boulevard, between Jackson Way and Stone Valley Road, in the Alamo area, by installing complete streets improvements. The Project includes curb extensions, curb ramps, and entry medians at the roundabout to reduce vehicle speeds and improve pedestrian crossings. Sidewalks will be reconstructed in the Project area, along with curb extensions and curb ramps, in order to meet Americans with Disabilities Act (ADA) requirements and to accommodate existing mature trees in the sidewalk.

The Project will reduce lanes of vehicle travel, from two lanes to one lane, at the roundabout approaches, which will result in decreased vehicle speeds as vehicles enter the roundabout. This and other aspects of the Project will improve vehicle, bicycle, and pedestrian safety.

On September 18, 2018, the Board of Supervisors approved the Project and determined the Project was exempt from the California Environmental Quality Act (CEQA), under the Class 1(c) Categorical Exemption, pursuant to Article 19, Section 15301 of the CEQA Guidelines. The CEQA notice of exemption was filed on September 19, 2018.

In order to proceed with the Project, it is necessary for the County to exercise its power of eminent domain. Pursuant to Section 1245.235 of the Code of Civil Procedure, notice was given to all persons listed on the attached Exhibit "A" whose names and addresses appear on the last equalized County Assessment Roll. This notice consisted of sending, by first-class and certified mail on June 23, 2022, a Notice of Intention to Adopt a Resolution of Necessity, which notified the owners that a hearing is scheduled for July 12, 2022, at 9:00 a.m., in the Board's Chambers at 1025 Escobar Street, Martinez, California. Those notices indicated that, at the above time and place, the owners may appear to be heard on the matters referred to in the notice.

BACKGROUND: (CONT'D)

B. Scope of Hearing Per C.C.P. Section 1245.235

In order for a public agency in California to initiate eminent domain proceedings, its governing body must adopt a resolution of necessity at a public hearing. A four-fifths vote is required to adopt a Resolution of Necessity. Code of Civil Procedure section 1245.230 provides that in order to adopt a resolution of necessity, the Board must make the following four findings:

1. Public Interest and Necessity require the proposed project.

With average daily traffic of approximately 20,000 vehicles per day, and with one of the highest rates of pedestrians and bicyclists within the County, this principal arterial - Danville Boulevard - is ranked in the County's top 20 corridors with the highest number of collisions in the past five years. When the Project was being planned, it was determined that the collision rate at the intersection was approximately 2.5 times the statewide average; and, at this intersection, there had been at least three pedestrian and 13 bicycle collisions in the 10 years prior to the planning phase of the Project.

The Project will include the installation of a roundabout at the intersection of Danville Boulevard and Orchard Court, which will improve safety at this location. The Project also will shorten pedestrian crossings across roadways, and it will reduce congestion at this intersection by keeping vehicles moving through the intersection. The Project will repair or replace sidewalks within the Project area, some of which have lifted and are impairing access to persons with disabilities. The Project also is a complete streets project that will result in enhanced aesthetics and the greening of Danville Boulevard. The Project aims to improve safety through the corridor for all users by improving sidewalks to meet ADA requirements and reducing conflicts at the Danville Boulevard/Orchard Court intersection. This will help residents, businesses, and customers of those businesses to use active modes of transportation.

2. 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, as planned and located, will achieve the Project purposes, and will require a partial acquisition of adjacent properties – the acquisition of an extension of temporary rights as described in Appendix A. The acquired areas are shown in the aerial included with this board order. The Project, as planned and located, avoids the partial or full acquisition of any buildings, and it will not displace any businesses during Project construction. The Project design and alignment ensure that the Project purposes will be achieved, including improving vehicle, bicycle, and pedestrian safety, improving ADA access, and enhancing or greening the Project area. During Project construction, best management practices will be implemented to avoid unnecessary impacts to residents,

businesses, and the traveling public. At least one lane of travel in each direction will be open to vehicle travel during Project construction. Emergency vehicles will have access through the Project area at all times.

Alternatives to the Project were evaluated and rejected, either because the alternatives would not meet the Project purposes, or, if they did meet the Project purposes, because the alternatives would result in significantly greater impacts to property owners and occupants and the traveling public. The first alternative that was evaluated involved shifting the Project footprint southwest. However, that alignment would have required the realignment of Orchard Court, and the partial or full acquisition of a building that is occupied by existing businesses and an at-grade parking area below the building (a portion of the building is constructed over the parking area). Another alternative that was evaluated involved shifting the Project footprint further southwest to avoid these impacts, but that alignment would not have achieved the objectives of the Project. Under that alignment, Orchard Court would not have fed into the roundabout, and that alignment would have created conflicts between vehicles using the roundabout and vehicles bypassing the roundabout. That alignment would have created safety hazards because of those conflicts. Therefore, alternatives that were considered would have resulted in substantially less public good and substantially greater private injury.

For all of these reasons, the Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

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

On March 2, 2021, the Board of Supervisors adopted Resolution No. 2021/67 to acquire certain permanent and temporary property rights by eminent domain for the Project. These property rights included a (1) a non-exclusive temporary construction easement measuring approximately 13,575 square feet for the sixteen month period commencing on September 1, 2021 and terminating on December 31, 2022; and (2) an exclusive temporary construction easement measuring approximately 1,064 square feet for a seven month period commencing on April 1, 2022 and terminating on October 31, 2022. Due to unpredictable delays causing the Project's start date to be changed, it is necessary for the County to acquire an extended temporary construction easement for the construction of the Project.

The property interests described in Appendix A to the Resolution of Necessity are necessary for the construction of the Project, as planned and designed. The approximate locations of the property interests also are shown on aerial right of way image attached here to as Exhibit "B". All efforts have been made to reduce the physical and operational impacts to adjacent properties, both during and after construction of the Project. The Project cannot be constructed as designed and planned without the acquisition of the property interests described in Appendix A to the Resolution of Necessity. As described in Appendix A to the Resolution of Necessity, and as shown in Exhibit B to this board

order, the property and property interests include (1) a temporary construction easement designated as Parcel No. 3, measuring approximately 13,575 square feet of land. The temporary construction easement will be put to nonexclusive use during an 11-month period, commencing January 1, 2023, and ending November 30, 2023. A portion of the temporary construction easement designated as Subparcel 3A, measuring approximately 1,064 square feet of land, will be put to exclusive use during a nine-month period commencing February 1, 2023, and ending October 31, 2023. The approximate location of Parcel No. 3, inclusive of Subparcel 3A, is as shown in Exhibit B attached hereto.

Without the extended temporary construction easement, the County will not have sufficient temporary rights to construct the Project.

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

Since the Resolution No. 2021/67 was adopted, the subject property has been purchased by WC Properties (Edens), LLC. The County, through the Real Estate Division of the Public Works Department, has made an offer of just compensation to the new owner of record for the property rights being acquired for this Project by this resolution of necessity. The offer was based on an appraisal of the fair market value of the property rights being acquired.

Efforts were made to acquire the property rights through negotiated purchase and sale instead of condemnation. Attempts to negotiate a settlement with the owners of record and/or their representatives have not been successful.

CONSEQUENCE OF NEGATIVE ACTION:

The County will be unable to acquire the temporary property rights necessary for the Project by eminent domain.

ATTACHMENTS

Resolution 2022/247

Appendix A

Exhibit A

Exhibit B