



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: October 18, 2022

Subject: Amendment to Right of Entry Permit with State Department of Parks & Recreation for the Marsh Creek Road Bridges Replacement Project, Brentwood area.

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute an amendment to right of entry permit (Amendment) with the State of California, Department of Parks and Recreation (State), to pay the State \$500.00 for Contra Costa County's (County) continued use of State-owned property within Assessor's Parcel Number 007-380-011 for an additional 19 months, through December 14, 2024, for fencing, access, roadway realignment and slope purposes, in connection with the County's Marsh Creek Road Bridges #28C-0143 & #28C-0145 Replacement Project, Brentwood area. Project No.: 0662-6R4083, Federal No.: BRLS 5928(125).

APPROVE payment of \$500.00 for Amendment and AUTHORIZE the Auditor-Controller to issue a check in said amount payable to Department of State Parks and Recreation, State Parks Diablo Range District, 15751 Tesla Road, Livermore, CA 94550 to be forwarded to the Real Estate Division for delivery.

FISCAL IMPACT:

88.5% Federal Highway Bridge Program Funds and 11.5% Local Road Funds.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **10/18/2022** ☒ 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: October 18, 2022

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

By: June McHuen, Deputy

Contact: Mark apHugh (925)
957-2452

cc:

BACKGROUND:

Contra Costa County intends to replace two existing bridges (Bridge No. 28C-0143 and Bridge No. 28C-0145) and related roadway approaches on Marsh Creek Road, a County highway, in the Brentwood and Clayton areas of unincorporated Contra Costa County (Project). The Project includes replacing the bridge structures and reconstructing 600 to 1000 feet of road right of way on each side of each new bridge structure to reconnect the realigned bridge to the existing roadway. Project-related work will include drainage and creek work. In connection therewith, the County must acquire interests in certain real property, which consists of a Roadway Easement which is 45,036 square feet in size and a Temporary Construction Easement, which is 113,978 square feet in size.

On November 26, 2019, Caltrans approved a National Environmental Policy Act (NEPA) Categorical Exclusion, pursuant to Chapter 3 of Title 23, United States Code, Section 326. Caltrans determined that this project has no significant impacts on the environment as defined by NEPA, and that there are no unusual circumstances as described in 23 CFR 771.117(b). On August 4, 2020, this Board approved the proposed Project and adopted the Mitigated Negative Declaration and Mitigation and Monitoring and Reporting Program pertaining to this Project pursuant to the California Environmental Quality Act (CEQA). A Notice of Determination was filed by the County's Clerk Records Office on August 14, 2020 and posted at the State Clearinghouse on September 2, all in compliance with CEQA. SCH No.: 2020040312/DCD-CP #15-41.

On September 21, 2021, this Board approved a Right of Entry Permit authorizing Contra Costa County (County) to use of a portion of State-owned property, identified as Assessor's Parcel Number 007-380-011, which is necessary for fencing, access, roadway realignment and slope accommodation in connection with the Project.

Under the Permit, the County has an irrevocable right of possession for property rights that the County requires to construct the Project. The Permit includes a Temporary Construction Easement (Parcel 5) with a term of approximately 20 months, which terminates May 14, 2023. The Permit also requires the State to grant the County permanent easements that the County requires to maintain the Project. For these rights, the County paid the State \$4,095.00.

Due to unpredictable circumstances causing the Project's start date to be delayed, it is necessary to amend the Permit to allow the County to continue to use the Temporary Construction Easement for an additional 19 months, from May 14, 2023 through December 14, 2024. For this additional term, the County will pay the State \$500.00. Consistent with the requirements of the Permit, the Amendment requires the County to indemnify the State from liabilities that arise from the County's use of the area under the Permit. The risk to the County can be mitigated by requiring the Project construction contractor to indemnify and defend the County from liabilities that arise during construction.

Real Estate staff recommends that the Board approve execution of the Amendment so that the Project construction can proceed as planned.

CONSEQUENCE OF NEGATIVE ACTION:

Without Board approval, the County will not have sufficient land rights to allow construction of the Project in accordance with the approved plans and specifications.

ATTACHMENTS

Amendment