



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 12/5/2023

To: Board of Supervisors

Department or Agency Name(s): Sonoma County Public Infrastructure

Staff Name and Phone Number: Johannes J. Hoevertsz, 707-565-2550

Vote Requirement: 4/5th

Supervisorial District(s): First

Title:

Public Hearing to Authorize the Use of Eminent Domain to Acquire Property Rights for the Watmaugh Road Bridge Replacement Project

Recommended Action:

- A. Conduct a public hearing to determine the necessity to acquire real property for the Watmaugh Road Bridge Replacement Project.
- B. Approve the proposed Resolution of Necessity and authorize acquisition of real property rights as required for the Project.
- C. Authorize and direct County Counsel and the Director of Public Infrastructure to take all necessary steps to obtain the real property rights required for the Project, including initiation of litigation if necessary.
- D. Delegate authority to the Director of Public Infrastructure to execute a Purchase and Sale Agreement, a certificate of acceptance therefor in accordance with Government Code section 27281, and all other instruments and materials, in form approved by County Counsel, as needed to acquire the subject real property rights.

Executive Summary:

The Sonoma County Public Infrastructure Department (SPI) is requesting your Board make the required findings necessary to allow the County to proceed with eminent domain to acquire the necessary property rights for the Watmaugh Road Bridge over Sonoma Creek Project. Making of the recommended findings and authorization of eminent domain will allow the County of Sonoma to pursue legal means, including filing litigation if necessary, to secure the rights needed for the Project, should the County remain unable to acquire the needed rights through a negotiated agreement with the property owner. However, County staff and its right of way representatives will continue to work with the property owner to reach agreement, if the owner is amenable.

Discussion:

The Local Bridge Seismic Retrofit Program was established following the 1989 Loma Prieta Earthquake to retrofit seismically deficient city and county owned bridges. An analysis issued in 1997 identified the Watmaugh Road Bridge over Sonoma Creek to be vulnerable to collapse during an earthquake. The Bridge was flagged for Mandatory Seismic Retrofit and the State tasked the County with executing the needed work. "Retrofit-by-Replacement" was the selected method to address the seismic deficiencies. In 2008 the Local Bridge Seismic Retrofit Account was established as part of State Proposition 1B to provide State funding to assist in the completion of seismic retrofit bridge projects. In 2019, the California Transportation Commission took steps to enforce progress on all seismic retrofit bridge projects. As part of those steps, the Commission imposed deadlines for progress on the Watmaugh Bridge Project. If the Project fails to meet its milestones schedule and the Commission deadlines, then the County will become ineligible for all Highway Bridge Program funding, including not only this Project but also all other current bridge seismic retrofit projects. The County has fifteen active such projects that could lose funding and over 300 bridges that could lose eligibility for future funding.

Watmaugh Road is a two-direction, two-lane road that runs east-west between Arnold Drive and State Route 12. The proposed Watmaugh Road Bridge Replacement Project (Project) will replace the existing bridge with a new bridge which meets modern structural, geometric, and hydraulic standards. The County has completed analysis of the Project under the California Environmental Quality Act and the National Environmental Policy Act. The next milestone deadline that the Project must meet is acquisition of all needed right-of-way.

Due to technical requirements imposed by modern safety standards, the County is unable to locate and construct the Project within the existing County owned right-of-way. For the Project, the County requires temporary construction easements, utility easements, and acquisitions of fee portions of property outside of existing County-owned right of way.

Five parcels are impacted by the Project needs. The costs of acquisition are anticipated to be fully reimbursed by Federal and State grants. The County has conducted extensive negotiations with all impacted property owners. Four of those owners have engaged in productive negotiations and staff anticipates reaching agreement with each of the four.

In contrast, the County has been unable to make progress on negotiations for the parcel at 201 Watmaugh Road, APN 128-401-019 (see Attachment 1: Location Map) owned by Mr. Kenneth Niles, in his capacities as trustee of the Kenneth E. Niles Trust and as successor trustee of the Betsy J. Niles Trust. The project requires a fee acquisition of 2,865 square feet, a temporary construction easement of 6,432 square feet, and a utility easement of 851 square feet from the Niles' property. By letter dated December 1, 2022, the County made a formal offer of \$26,900 to owner Niles based on an appraisal of market value for the needed real property interests (see Attachment 2: Offer Package). The County and its right of way agents later conducted numerous phone calls and two in person meetings with owner Niles. Mr. Niles has repeatedly expressed a wish to only discuss topics other than the County's acquisition offer, including wanting to dispute the County's approach to the Project and the historical merits of the existing bridge structure. All of owner Niles' issues have been previously analyzed, mitigated, and otherwise resolved in accordance with all applicable requirements as to the Project, yet Mr. Niles remains steadfast in not agreeing with the Project. In light of the impasse and mounting delay, County right of way agents mailed a letter dated October 16, 2023, stating staff's intent to

seek a Resolution of Necessity. As of November 20, 2023, owner Niles has not provided a response to the last offer nor provided any other response.

Accordingly, it is necessary to receive authorization to obtain the property through litigation and the process of eminent domain. Adoption of the Resolution of Necessity enables the County to file a condemnation action in court to acquire the necessary property rights to construct the Project, should owner Niles continue to not engage as needed to secure the necessary rights.. If the Resolution of Necessity is approved, County staff will continue to negotiate with owner Niles. If those negotiations remain unsuccessful, the matter will be referred to County Counsel for applicable legal action.

To acquire the needed property interests by eminent domain, the Board must now hold a public hearing and adopt a Resolution of Necessity, which must include the following:

1. A description of the property location, and the use for which the property is to be taken.
2. A finding that an offer has been made to the owner of record in accordance with law.
3. A finding that the public interest and necessity require the Project.
4. A finding that the Project is planned in a manner which is most compatible with the greatest public good and least private injury.
5. A finding that the property is required for the Project.

It is necessary in the public interest to replace the Watmaugh Road Bridge over Sonoma Creek to prevent collapse and to ensure public safety.

The existing Watmaugh Bridge is rated for less than legal loads and is at risk of sudden and unpredictable collapse during an earthquake, vehicular overloading, or flooding events. This bridge is a weak link in a route that supports more than 3,600 vehicles per day and which is used as a detour for other important routes that frequently flood. Replacement of this bridge will contribute to resilient and continued operation of this important and highly-traveled corridor.

The Project's design engineering firm, Moffatt and Nichol, considered all possible options within the applicable scope needs, engineering realities, and safety standards to minimize Project impacts to adjoining private property owners. Any replacement of a roadway bridge triggers the requirement for bringing the bridge and roadways approaches up to current American Association of State Highway and Transportation Officials (AASHTO) and County safety standards. These standards include providing a minimum of 11-foot travel lanes and 5-foot shoulders per lane. These design requirements mean that the new bridge requires additional width and property beyond the existing right of way boundaries, which is only approximately 23 feet wide. The replacement bridge will be constructed along the same alignment of the existing bridge and therefore has been designed to situate within the existing right of way as much as possible, yet additional property rights are needed to accommodate the additional width and spacing mandated by all modern design, code, and safety requirements. Existing utilities on the perimeter of the existing right of way need to be relocated, both temporarily to provide construction clearance and permanently to be outside of the roadway path of travel and clearance prisms.

The County's offer to Mr. Niles has contained all the information and notification of rights as required by applicable law, including an offer of just compensation based on an included appraisal summary of fair market value for the property and all required informational packets regarding eminent domain and owner's associated rights. That offer is attached to this Summary Report.

The department recommends approval of the Resolution of Necessity and approval to proceed with eminent domain to advance the Project and continue meeting funding requirements.

Should the Board not approve, the Federal and State funding for this Project, and the entirety of the County's funded bridge grant program, would be in jeopardy, due to a failure to meet scheduling deadlines and obligations.

Strategic Plan:

This item directly supports the County's Five-year Strategic Plan and is aligned with the following pillar, goal, and objective.

Pillar: Resilient Infrastructure

Goal: Goal 3: Continue to invest in critical road, bridge, bicycle, and pedestrian infrastructure.

Objective: Objective 4: Identify and retrofit bridges in County that are at high risk for damage during earthquakes.

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

July 31, 2012 - Item 63 - Board approved consultant design contract with Moffet & Nichols

May 12, 2015 - Item 25 - Board approved amendment to consultant design contract

Dec 04, 2018 - Item 19 - Board approved amendment to consultant design contract

Apr 18, 2023 - Item 37 - Board approved amendment to consultant design contract

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses	\$26,900		
Additional Appropriation Requested			
Total Expenditures	\$26,900		
Funding Sources			
General Fund/WA GF			
State/Federal	\$24,210		
Fees/Other	\$2,690		
Use of Fund Balance			
General Fund Contingencies			
Total Sources	\$26,900		

Narrative Explanation of Fiscal Impacts:

Revenue and expenses associated with this acquisition are included in the FY 2023-24 Roads Capital (11051-34010103) Budget. Funding for the Watmaugh Bridge replacement project has been approved for funding through the Federal Highway Bridge Program (HBP) for 90% of eligible Right of Way costs. The Roads Division is responsible for 10% of eligible Right of Way costs and will utilize traditional Roads funding sources such as State Highway User Tax (HUTA) and Road Maintenance Rehabilitation Account (SB1) for the local match.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

- Resolution
- Attachment 1: Location Map
- Attachment 2: Offer Package
- Board Presentation
- Death Certificate
- Quitclaim Deed

Related Items "On File" with the Clerk of the Board:

- Design Documents