



Legislation Text

File #: 2024-0564, **Version:** 1

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): Fourth

Title:

1:35 P.M. Public Hearing to Authorize the Use of Eminent Domain to Acquire Property Rights for the North Fitch Mountain Road Repair Project

Recommended Action:

- A) Conduct a public hearing to determine the necessity to acquire real property for the North Fitch Mountain Road Repair Project.
- B) Adopt 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 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.

(Fourth District)

Executive Summary:

The Sonoma County Public Infrastructure Department (SPI) is requesting the Board make the required findings necessary to allow the County to proceed with eminent domain to acquire certain necessary property rights for the North Fitch Mountain Road Project (C11601). Making the recommended findings and authorization of eminent domain will allow the County 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. County staff and its right of way representatives will continue to work with the property owner to reach agreement.

Discussion:

During the January 2017 winter storm event several sites along North Fitch Mountain Road were severely damaged and require significant repairs. Among the sites is a slip out at road mile marker 13.20. The slip out extended approximately 350-feet and had a 1-foot slump in the roadway surface along the roadway centerline

between the eastbound and westbound lanes. The roadway continues to move and again needs repair.

A project to repair all of the damaged sites has been planned and is preparing for construction. Part of the project will address the slip and affected roadway (the "Project"), which will include constructing a 4-foot wide by 335-foot long drainage trench that varies in depth between 25-feet and 37-feet, reconstruction of a roadway ditch, installation of an 18-inch corrugated metal pipe (CMP) cross culvert with a 24-inch CMP over side drain outlet, guardrail installation, and removing and reconstructing the upper five feet of the existing roadway.

To finalize design and environmental review and begin the construction phase of the Project, SPI has been working to acquire necessary temporary and permanent easements. Because the easements are necessary to complete the Project, SPI has made repeated attempts to negotiate with the subject property owner, Laura Jeanne Burgess.

During several site visits between County representatives and the design engineer in 2021 and 2022, the property owner approached the group and asked several questions about the proposed repair project and brought up concerns. The property owner raised apprehensions about the potential consequence of road repairs leading to increased speeding. Additionally, concerns were expressed about the drainage outlet location. The County suggested the installation of a caution sign and explored modifications to the drainage system.

Subsequently, there was a second on-site meeting with the property owner where more detailed discussions took place regarding the scope of the repair. In addition to these on-site discussions there have been several phone calls and email exchanges. After the right-of-way firm was brought on board, discussions began with the right-of-way firm and the property owner. There were multiple discussions, mainly through email and postal mail between the right-of-way agent and the property owner. In addition, there were a number of phone calls and emails with County staff. During this time, the property owner was provided with plans and environmental documents, as requested. The property owner has now engaged an attorney and an agreement has not yet been reached.

A "Waiver Valuation" report was initially prepared by the County in accordance with Caltrans Guidelines for property interests considered "low value" or "nominal value" property and an offer package was sent to the mailing address of the parcel owner of record. The first mailed Notice of Decision to Appraise was sent on November 18, 2022, and an offer was made on May 24, 2023. Negotiations failed to advance in 2023. After it was determined that condemnation litigation may become necessary, a new, full appraisal was performed, and a new offer letter was sent on March 14, 2024.

It is necessary in the public interest to repair the roadway to ensure public safety. The subject section of North Fitch Mountain Road serves as a crucial evacuation route for wildfire and other public emergencies. The absence of alternative ingress and egress routes in the case of failures at both sites, as has happened historically, underscores the critical importance of the subject roadway as a vital piece of County infrastructure. The property interests to be acquired are necessary in the public interest and for the Project, in order to repair the subject roadway to current and modern road width, safety, and related drainage improvements needed to mitigate against future mudslide, erosion, and other damages to the roadway. Accordingly, it is necessary to receive authorization to obtain the property through the process of eminent domain. Adoption of the Resolution of Necessity allows the County to proceed with condemnation if

negotiations with the property owner fail. While negotiations will continue, unsuccessful talks may lead to legal action initiated by County Counsel.

The total acreage of permanent easement to be acquired is 0.029 acres and the total temporary acreage to be acquired is 0.033 acres. Both proposed easements impact a single property located at 1670 River Lane, Healdsburg, CA (Assessor's Parcel Number 087-030-004). The total parcel size is 2.71 acres and based on an appraisal completed by Associated Right of Way Services in February 2024, the total value of the proposed temporary and permanent easements is \$6,100.00

The total project costs are estimated to be \$3,717,416. The primary funding for this project comes from Federal Highway Administration Emergency Relief Grant Program (FHWA-ER) for 88.53% and Prop 1B for 11.47% of eligible Right of Way costs. Initially, FHWA denied a request to extend the Project past the standard deadline, and despite an appeal, the decision remained unchanged. Recognizing the significance of the project, various local elected officials intervened, urging FHWA to reconsider the extension. After several meetings, the initial decision was reversed, resulting in two extensions of the Project, spanning an additional two years, through 2026. The risk of forfeiting all Federal funds looms large if the Project does not swiftly advance to the construction phase. While agreements are in place for all other needed property rights, progress on the Project is currently hindered by a single parcel.

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 1: Align the Board of Supervisor's strategic priorities, policy, and operational goals with funding and resources.

Racial Equity:

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

No

Prior Board Actions:

July 7, 2020, Item #23 - Award of Design/Engineering Services Agreement for 2017 Storm Repairs along North Fitch Mountain Road.

FISCAL SUMMARY

| Expenditures | FY23-24 Adopted | FY24-25 Projected | FY25-26 Projected |
|--------------|--------------------|----------------------|----------------------|
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|------------------------------------|----------------|--|--|
| Budgeted Expenses | \$6,100 | | |
| Additional Appropriation Requested | | | |
| Total Expenditures | \$6,100 | | |
| Funding Sources | | | |
| General Fund/WA GF | | | |
| State/Federal | \$5,400 | | |
| Fees/Other | \$700 | | |
| Use of Fund Balance | | | |
| General Fund Contingencies | | | |
| Total Sources | \$6,100 | | |

Narrative Explanation of Fiscal Impacts:

Revenue and expenses associated with this acquisition are included in the FY 2023-24 Roads Capital (11051-34010103) Adopted Budget. Funding for the North Fitch Mountain Road Repair has been approved for funding through the Federal Highway Administration Emergency Relief Grant Program (FHWA-ER) for 88.53% of eligible Right of Way costs. The remaining 11.47% of eligible Right of Way costs will be funded through Prop 1B.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Resolution

Attachment 1: Location Map

Attachment 2: Offer Package

Presentation

Related Items “On File” with the Clerk of the Board:

None.