



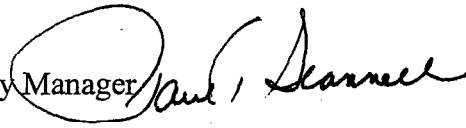
COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Manager's Office

DATE: April 29, 2002

BOARD MEETING DATE: May 21, 2002

TO: Honorable Board of Supervisors

FROM: Paul T. Scannell, Assistant County Manager 

SUBJECT: **Resolutions of Necessity (11) for Properties Located in the City of Belmont and in Unincorporated San Mateo County for the Highway 101 Ralston to Marsh Widening Project (4/5ths vote required).**

Recommendation

Adopt Resolutions of Necessity to acquire certain interests in real property, as shown on attached Exhibit A (the "Properties").

Background

The County seeks to condemn the Properties in conjunction with the Highway 101 Ralston Avenue to Marsh Road Widening Project ("Project"). Pursuant to the Project plan, various collateral physical improvements will be constructed in addition to the widening of the Highway 101 roadway. Those improvements include a retaining wall, a sound wall, rebuilt drainage culverts, and changes to the frontage road.

The address of the Properties, Assessor's Parcel Numbers, area affected, description of the property rights to be acquired, and ownership are shown on Exhibit A. The property rights to be acquired are Temporary Construction Easements (TCE) and Sewer Easements (Sewer).

On April 2, 2002 this Board adopted Resolution No. 65156 authorizing an amendment to for the Professional Services Agreement (PSA) with the San Mateo County Transportation Authority (SMCTA). As part of the agreement, as amended, this Board agreed to consider, as needed, resolutions of necessity for property to be acquired for SMCTA projects.

On May 7, 2002 this Board adopted Resolution No. 65226 authorizing the acquisition of real property interests required for State highway purposes in relation to the Project as set forth in Streets and Highways Code section 760.

Discussion

By adopting the Resolutions of Necessity, the Board of Supervisors conclusively establishes the extent and necessity of the acquisition of the Properties.

California Code of Civil Procedure sections 1240.010, *et seq.* authorize the County to acquire property by eminent domain. Before condemning property, the County must satisfy certain procedural prerequisites, including obtaining an appraisal, presenting a formal offer, adopting a Resolution of Necessity and providing notice to the property owner of the right to a public hearing prior to adopting the Resolution of Necessity. The County, in adopting the Resolution of Necessity, must make the following determinations, and the notice to the property owner must inform the owner of the right to appear and be heard on these matters:

- A) The public interest and necessity require that the Project be undertaken,
- B) The Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury,
- C) The acquisition of the property is necessary for the Project, and
- D) An offer has been made to the owner.

All of the procedural prerequisites to adopting the Resolutions of Necessity have been satisfied. Prior to reaching this stage of the acquisition of this Property, SamTrans engaged a real estate appraiser to value the Properties, and formal offers were presented to the owners based on the fair market value. The offers included copies of the comparable sales data used by the appraiser to determine the fair market value. The appropriate notices were sent to the property owners informing each of the right to appear and be heard prior to the adoption of the Resolutions of Necessity.

The purpose of the public hearing prior to adopting a Resolution of Necessity is to discuss the necessity of the Property for the Project. It is not appropriate to debate the value of the Property at the hearing.

Vision Alignment

The recommendation is consistent with the Shared Commitment "Ensure Health and Safety for All" in that the acquisition of the easements will provide for the construction of sound walls to reduce roadway noise for the people living near the highway. It also comports with the Shared Commitment "Responsive, Effective and Collaborative Government" in that we are working cooperatively with the Transportation Authority to implement the project.

Fiscal Impact

The project is being funded by the SMCTA. No County funds are included in the project budget. The PSA, as amended, provides that SMCTA staff will conduct all real estate related activities for the Project and SMCTA legal staff will file all eminent domain and related actions. Under the terms of the PSA, as amended, the County will be reimbursed for staff time in connection with this matter.

cc: Milt Mares, Deputy County Counsel
Steve Alms, Real Property Services
Brian Fitzpatrick, SMCTA

RECOMMENDED

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COUNTY MANAGER

Paul J. Scannell