



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



Date: March 21, 2013
Board Meeting Date: May 7, 2013
Special Notice / Hearing: None
Vote Required: 4/5ths

To: Honorable Board of Supervisors

From: John L. Maltbie, County Manager

Subject: Resolutions of Necessity Authorizing Seven Eminent Domain Actions
To Acquire Real Property For The US 101/ Broadway Interchange
Reconstruction Project

RECOMMENDATION:

Adopt Resolutions of Necessity Determining that the Public Interest and Necessity Require Acquisition of Real Property located in Burlingame for the Interchange 101 at Broadway Project and directing the filing of Eminent Domain proceedings.

BACKGROUND:

THE US 101/BROADWAY INTERCHANGE RECONSTRUCTION PROJECT:

The California Department of Transportation, in cooperation with the San Mateo County Transportation Authority (SMCTA) and the City of Burlingame, proposes to reconfigure the US 101 Broadway Interchange in Burlingame—"US 101/Broadway Interchange Reconstruction Project." The Project will remove the existing four-lane Broadway overpass and a new seven-lane overpass will be constructed approximately 170 feet north of the existing structure. Broadway will be realigned to extend straight across US 101 from the Broadway/Rollins Road intersection on the west to the Bayshore Highway/Airport Boulevard intersection on the east. Other improvements will include replacing the existing on- and off-ramps and installing ramp metering equipment. The Project will retain the existing pedestrian overcrossing just south of Broadway and include additional pedestrian and bicycle improvements at the interchange. The estimated project cost of \$75.2 million will be jointly funded by SMCTA's Measure A funds, state transportation funds, and the City of Burlingame. SMCTA is responsible for acquiring the property for the Project, but does not have the power of eminent domain. By means of a Cooperative Agreement between the County and SMCTA, dated

December 11, 2012, the County has agreed to consider any necessary condemnation actions for the Project.

Construction of the Project as designed requires acquisition of the respective property interests. The Resolutions of Necessity and anticipated subsequent eminent domain actions will allow for possession of the real property interests required for the Project to proceed on schedule, without delay. SMCTA staff will continue negotiations with the property owners with the goal of achieving settlement before litigation is required.

DISCUSSION:

EMINENT DOMAIN:

California Code of Civil Procedure sections 1240.010, et seq., authorize the County to acquire property by eminent domain. Before condemning property, certain procedural prerequisites must be met, including obtaining an appraisal, presenting a formal offer to the owner, providing notice to the property owner of the right to a public hearing prior to adopting a Resolution of Necessity, and adopting a Resolution of Necessity. By adopting the Resolution of Necessity, the Board of Supervisors conclusively establishes the necessity of the acquisition of the Property. In adopting the Resolution of Necessity, the Board must make the following determinations:

- 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. The purpose of the public hearing prior to adopting a Resolution of Necessity is to discuss the necessity of acquiring the Property by eminent domain. It is not appropriate or necessary to debate the value of the Property at the hearing because valuation does not bear on whether the requirements for a Resolution of Necessity have been met.

A) The Public Interest And Necessity Require That The Project Be

The US 101/Broadway interchange is the oldest interchange in San Mateo County and its configuration causes poor system performance. In addition to having geometric features such as tight loop ramps that do not comply with modern design standards, the interchange lacks direct, intuitive connections among some of the areas it serves. The circuitous traffic movements increase travel time for interchange users, especially during peak traffic hours. Moreover, the area east of the interchange contains several hotels, restaurants, and other businesses that serve SFO and therefore attract visitors who are unfamiliar with the interchange and local roadway system. Area business

owners have reported to the City of Burlingame that clients get lost and have difficulty reaching their destinations while trying to navigate through the interchange. The US 101/Broadway interchange also lacks capacity to accommodate projected future traffic volumes. The Project will improve traffic around the interchange, accommodate future traffic increases at adjacent intersections, improve operations at the southbound US 101 ramps and increase bicyclist and pedestrian access.

B) The Project Is Planned In The Manner That Will Be Most Compatible The Greatest Public Good And Least Private Injury.

On March 18, 2011, Caltrans certified that the Negative Declaration and Finding of No Significant Impact were completed in compliance with the California Environmental Quality Act, the National Environmental Policy Act and related implementing regulations. The Project is intended to be most compatible with the greatest public good and least private injury in that the planned improvements have been designed to provide the maximum safety and aesthetic improvements to the public, using the smallest possible acquisition areas from the affected properties to meet Project objectives. Again, the Project as planned will improve traffic around the interchange, accommodate future traffic increases at adjacent intersections, improve operations at the southbound US 101 ramps and increase bicyclist and pedestrian access. The Project has been designed so that the use of the specified acquisition areas will not unreasonably interfere with or impair the continued use of any existing public interest

C) The Property Areas Sought To Be Acquired Are Necessary For The

Please refer to "The Subject Properties" section immediately below as well as the attached "Right of Way Requirements" aerial project maps depicting the physical alignment of the Project and surrounding development.

D) An Offer Has Been Made To The

SMCTA obtained appraisals from independent appraisers. Each written offer included an Offer Letter; a Summary Statement relating to Purchase of Real Property or an Interest Therein; a set of proposed Right of Way Contract(s) and Grant Deed(s) that included legal descriptions and plat maps depicting the subject property interests; a Copy of the Appraisal; and, a statement of the owner's right to obtain and be paid up to \$5,000.00 for an independent appraisal. Please refer to the section entitled "History Of Appraisals, Offers And Negotiations" for additional detail.

THE SUBJECT PROPERTIES:

A total of 15 parcels are required for the Project. To date, the owners of eight parcels have signed agreements to convey the required property interests. The Resolutions of Necessity relate only to the seven remaining properties for which there are no executed purchase agreements to date. SMCTA staff continue to attempt to reach negotiated settlements with the owners.

The seven affected properties are described as follows:

1. 1299 Bayshore Highway, Burlingame, is owned by 99 Old Bayshore LLC. The Assessor's Parcel Number is 026-141-020 and the State Parcel Number is 62631. The entire parcel measures approximately 46,413 square feet and is developed with a commercial office building and parking lot. The real property interests required for the Project include:

- Permanent Fee Acquisition measuring 3,327 square feet (62631-1,-2);
- Permanent Drainage Easement measuring 2,960 square feet (62631-3); and, Two
- Temporary Construction Easements measuring 4,367 square feet (62631-4) and 2,960 square feet (62631-5), set to terminate and expire upon the earlier of completion of the Project or August 31, 2016.

Explanation: This property is located between Bayshore Highway and US Highway 101, just north of the on-ramp onto northbound US Highway 101. The interests required are drainage and temporary construction easements bordering the existing freeway to permit its widening, a fee interest for the widening of Bayshore Highway, and a temporary construction easement adjacent to Bayshore Highway to facilitate its reconstruction.

2. 1288 & 1290 Bayshore Highway, Burlingame, is owned by Fox Investments GP. The Assessor's Parcel Number is 026-142-070 and the State Parcel Number is 62632. The combined parcel measures approximately 58,964 square feet and is developed with a commercial building for auto sales and parking lot. The real property interests required for the Project include:

- Permanent Fee Acquisition measuring 14 square feet (62664-7 & 62632-1); and,
- Two Temporary Construction Easements measuring 482 square feet (62632-2) and 138 square feet (62632-3), set to terminate and expire upon the earlier of completion of the Project or August 31, 2016.

Explanation: These properties are located on the east side of Bayshore Highway, across from the existing freeway on- and off-ramps to US Highway 101 northbound. The interests required are a fee take for the location of a signal pole and temporary construction easements to facilitate the reconstruction of the owner's driveway and the Bayshore Highway.

3. 1240 Bayshore Highway, Burlingame, is owned by Pritam Sing and Jean D. Sabharwal. The Assessor's Parcel Number is 026-142-090 and the State Parcel Number is 62634. The entire parcel measures approximately 63,648 square feet and is developed with a commercial office building and parking lot. The real property interests required for the Project include:

- One Temporary Construction Easement measuring 1,955 square feet (62634-1), set to terminate and expire upon the earlier of completion of the Project or August 31, 2016.

Explanation: This property is located on the east side of Bayshore Highway, between the existing freeway on- and off-ramps to northbound US Highway 101 and Airport Boulevard. The interest required is a temporary construction easement to facilitate the reconstruction of Bayshore Highway, and some on-site improvements including but not limited to stairs, landscaping, and drainage features.

4. Certain vacant property on Bayshore Highway, Burlingame, is owned by Robert Paul Waddell, Jr. And Angela Kathie Bramble. The Assessor's Parcel Numbers are 026-142-020 and 026-142-030 and the State Parcel Number is 62635. The combined parcel measures 29,430 square feet and is undeveloped. The real property interests required for the Project include:

- Permanent Fee Acquisition of the entire parcel (62635-1).

Explanation: This property is located on the east side of Bayshore Highway, between the existing freeway on- and off-ramps to northbound US Highway 101 and Airport Boulevard. Portions of the parcel are required for the reconstruction of Airport Boulevard, rendering the remainder an unmarketable remnant.

5. 1200 Bayshore Highway, Burlingame, is owned by Northwest Dealerco Holdings LLC. The Assessor's Parcel Number is 026-142-130 and the State Parcel Number is 62636. The entire parcel measures 35,587 square feet and is developed with a service station. The real property interests required for the Project include:

- Permanent Fee Acquisition of the entire parcel (62636-1).

Explanation: This property is located on the east side of Bayshore Highway at the corner of Airport Boulevard. The entire parcel is required to facilitate the reconstruction of Airport Boulevard to align with the new Broadway overpass across US Highway 101.

6. 1222 Rollins Road, Burlingame, is owned by Kathleen L. Dore (successor trustee). The Assessor's Parcel Number is 026-134-160 and the State Parcel Number is 62640. The combined parcels measure approximately 36,956 square feet and is developed with a commercial building and parking lot. The real property interests required for the Project include:

- Permanent Drainage Easement measuring 3,700 square feet (62664-5, 62640-1);
- Permanent Maintenance Easement measuring 3,700 square feet (62664-6, 62640-2); and,
- One Temporary Construction Easement measuring 3,700 square feet (62640-3), set to terminate and expire upon the earlier of completion of the Project or August 31, 2016.

Explanation: This property is located on the east side of Rollins Road and borders US Highway 101 and the southbound off-ramp onto Broadway. The interests required are permanent easements for maintenance of drainage facilities and retaining wall systems and a temporary construction easement to facilitate the construction of the relocated overpass and the off-ramp to a realigned Broadway and Rollins Road.

7. 1250 Rollins Road, Burlingame, is owned by Kathleen L. Dore (successor trustee). The Assessor's Parcel Number is 026-134-090 and the State Parcel Number is 62638. The entire parcel measures approximately 42,289 square feet and is developed with a commercial building and parking lot. The real property interests required for the Project include:

- Permanent Fee Acquisition measuring 167 square feet (62638-1); and,

- One Temporary Construction Easement measuring 692 square feet (62638-2), set to terminate and expire upon the earlier of completion of the Project or August 31, 2016.

Explanation: This property is located on the east side of Rollins Road, between the existing freeway on- and off-ramps to northbound US Highway 101 and Airport Boulevard. The interest required is a temporary construction easement and a fee interest to facilitate the reconstruction of Rollins Road to conform to relocated Broadway realignment.

HISTORY OF APPRAISALS, OFFERS AND NEGOTIATIONS:

1. 1299 Bayshore Highway, Burlingame. The Notice of Decision to Appraise the property was mailed to the owner on February 21, 2012. The first written Offer of Just Compensation was mailed to the owner's attorney on September 20, 2012. SMCTA staff met the property owner and project manager on site to discuss the project on September 28, 2012. There have been numerous e-mails and phone calls between SMCTA and the owner representative, however, no settlement has been reached.

2. 1288 & 1290 Bayshore Highway, Burlingame. The Notice of Decision to Appraise this property was mailed to the owner on February 7, 2012. The first written Offer of Just Compensation was mailed to the owner on September 7, 2012. The owner disagrees with the location of the property line and feels that the City of Burlingame-owned right-of-way is encroaching on its parcel. The right-of-way is not the subject of the real property interests that are sought through his Resolution of Necessity but the dispute is interfering with settlement. SMCTA in conjunction with URS have surveyed the property and staked the property line. SMCTA has met with the owner's representative on site to walk the property line. There have been numerous e-mails and phone calls between SMCTA and the owner representative, however, no settlement has been reached.

3. 1240 Bayshore Highway, Burlingame. The Notice to the Decision to Appraise this property was mailed to the owner on February 6, 2012. The first written Offer of Just Compensation was delivered to the owner in person at the site on June 26, 2012. There have been numerous e-mails and phone calls between SMCTA staff and the owner, however, no settlement has been reached.

4. Certain vacant property on Bayshore Highway, Burlingame. The Notice of Decision to Appraise this property was mailed on February 15, 2012. The first written Offer of Just Compensation was mailed to the owner's attorney's office at her request on June 27, 2012. SMCTA staff held a meeting with the owner and his attorney on July 25, 2012. SMCTA staff have communicated on numerous occasions with the owner and his attorney by e-mail, telephone calls and letters. However, these discussions have not resulted in settlement. Notably, too, Robert Waddell, one of the owners, attended a public meeting held by URS the project contractor for property owners as far back as August 23, 2010.

5. 1200 Bayshore Highway, Burlingame. The Notice of Decision to Appraise this property was mailed on February 21, 2012. The first written Offer of Just Compensation was mailed to the owners on August 21, 2012. The property owner is located in Agoura Hills, California; therefore, no personal meetings have occurred with the property owner and SMCTA staff. Notwithstanding, there have been numerous e-mails and phone calls between the owner's representative and legal counsel. The parties have exchanged different versions of the proposed Right-Of-Way Contract and settlement negotiations are ongoing. SMCTA's counsel was informed recently by owner's counsel that the owner does not intend to contest the adoption of the Resolution of Necessity.

6. 1222 Rollins Road, Burlingame. The Notice of Decision to Appraise the property was mailed to the owner on July 16, 2012. The first written Offer of Just Compensation was delivered to the owner in person on site on October 4, 2012. A meeting was held at the property on October 16, 2012 and again in January 2013. The parties have exchanged contract provisions and settlement offers. Please note that the property is owned by the same group as State Parcel Number 62638 and negotiations have proceeded concurrently with respect to both properties since the first written offer was made.

7. 1250 Rollins Road, Burlingame. The Notice of Decision to Appraise the property was mailed to the owner on February 7, 2012. The first written Offer of Just Compensation was delivered to the owner in person on site on October 4, 2012. A meeting was held at the property on October 16, 2012 and again in January 2013. The parties have exchanged contract provisions and settlement offers. Please note that the property is owned by the same group as State Parcel Number 62640 and negotiations have proceeded concurrently with respect to both properties since the first written offer was made.

On or about March 20, 2013, written notices were sent to the property owners by first class and certified mail with a return receipt requested advising them that the Board of Supervisors would consider the adoption of the Resolutions of Necessity to acquire the real property by Eminent Domain action. That notice set today at 9:00 a.m. as the date and time for the hearing on this matter. Property owner responses to the notice are attached hereto.

County Counsel has reviewed and approved the Resolutions as to form. SMCTA concurs in this recommendation.

This action promotes the County's vision of a Collaborative Community because it supports an interchange project that will improve traffic operations and safety and accommodate future traffic increases in San Mateo County.

FISCALIMPACT:

All staff costs and costs of to proceed with the condemnation actions will be paid by SMCTA.

ATTACHMENTS:

- A. Right of Way Requirements Map-1
- B. Right of Way Requirements Map-2
- C. Property Owner responses