



COUNTY OF HUMBOLDT

For the meeting of: 12/14/2021

File #: 21-1775

To: Board of Supervisors

From: Public Works

Agenda Section: Public Hearing

SUBJECT:

Acquisition of Interest in Real Property (Assessor Parcel No. 501-241-031, 501-241-030, 501-241-033, 017-081-001, 404-141-004) for the Humboldt Bay Trail South Project

RECOMMENDATION(S):

That the Board of Supervisors:

1. Open the public hearing;
2. Receive the staff report and comments from the public;
3. Close the public hearing;
4. Find that Notice of Intention to acquire interest in real property to provide right-of-way for the Humboldt Bay Trail South Project was given pursuant to Government Code section 25350;
5. Approve the acquisition of real property designated with Assessor Parcel No. 501-241-031 and Assessor Parcel No. 501-241-030;
6. Approve the acquisition of a temporary construction easement on a portion of Assessor Parcel No. 501-241-033;
7. Approve the acquisition of permanent and temporary easements on portions of Assessor Parcel No. 017-081-001 and Assessor Parcel No. 404-141-004;
8. Approve, and authorize the Public Works Director to sign, the attached Purchase and Sale Agreements and associated deeds (and revisions or amendments with non-substantial changes); and
9. Appoint the Public Works Director, or the Deputy-Director for Environmental Services, to negotiate and execute documents reasonably necessary to complete the acquisitions.

SOURCE OF FUNDING:

Bicycles & Trailways Program (1710)

DISCUSSION:

Humboldt County is implementing the Humboldt Bay Trail South Project ("Project") which would expand the Humboldt Bay Trail by four and a quarter (4.25) miles and complete the trail connection between Eureka and Arcata. The primary purpose of the Project is to improve safety and connectivity for non-motorized and motorized travelers and enhance public access to Humboldt Bay. The Project

would provide significant advancement in active transportation, recreation, and coastal access opportunities in the Humboldt Bay region. Public Works intends to complete the right-of-way phase in February 2022. The Coastal Commission is expected to consider approval of a coastal development permit in February 2022. The current goal is to complete the construction bid package no later than June 2022 to allow construction to begin in late summer or fall of 2022 with completion in 2023.

On Oct. 6, 2020, the Board of Supervisors approved the purchase of two (2) parcels (Assessor Parcel No. 501-241-005 and Assessor Parcel No. 404-141-002) situated along the Humboldt Bay shoreline between the Brainard mill site and Bracut Industrial Park.

Here, Public Works recommends that the Board approve acquisitions of real property interests associated with Bracut Industrial Park and the Brainard mill site as described below. Attachment 1 contains a set of maps depicting the affected parcels.

Bracut Industrial Park

Public Works recommends that the Board approve the acquisition of real property designated with Assessor Parcel No. 501-241-031 and Assessor Parcel No. 501-241-030 and a temporary construction easement on a portion of Bracut Industrial Park (Assessor Parcel No. 501-241-033). The Purchase and Sale Agreement and Temporary Construction Easement associated with Bracut Industrial Park is contained in Attachment 2.

Assessor Parcel No. 501-241-031 is a linear parcel situated between Bracut Industrial Park and Highway 101 over which the North Coast Railroad Authority (“NCRA”) holds an easement for railroad purposes. Humboldt County would grant to the seller a permanent easement over the driveway between Bracut Industrial Park and Highway 101. Within Assessor Parcel No. 501-241-031, the proposed trail would be situated between the railroad and Highway 101. The Project would include construction of a six (6) foot high, welded-wire fence along the perimeter of the main industrial property.

Assessor Parcel No. 501-241-030 is situated along the Humboldt Bay shoreline and includes portions of the railroad and adjacent intertidal areas. Acquisition of Assessor Parcel No. 501-241-030 is needed to improve the shoreline protection for the railroad and future trail corridor. On Aug. 5, 2021, the Humboldt County Planning Commission approved a Lot Line Adjustment to adjust the boundary between Assessor Parcel No. 501-241-030 and Assessor Parcel No. 501-241-033, whereby a portion of developed land will be retained by the seller and merged with the main industrial property.

The temporary construction easement on a portion of Assessor Parcel No. 501-241-033 would allow construction access and staging at the southern portion of Bracut Industrial Park adjacent to the railroad.

Bender Rosenthal Incorporated (“BRI”) prepared an Appraisal Report dated Sept. 27, 2019. Assessor Parcel No. 501-241-031 and Assessor Parcel No. 501-241-030 were appraised as open space for a total land value of \$246,725. The temporary construction easement on Assessor Parcel No. 501-241-033 was appraised for a rental rate of \$0.05 per square feet per month, which for a duration of 30 months

yields a total value of \$98,475. The Purchase and Sale Agreement and Temporary Construction Easement (Attachment 2) includes a provision for Humboldt County to reimburse the seller an amount of \$10,000 for legal expenses incidental to the transfer of the property. The total compensation for the land purchase, temporary construction easement, and expense reimbursement is \$355,200.

Brainard Mill Site

Public Works recommends that the Board approve acquisition of permanent and temporary easements over portions of Assessor Parcel No. 017-081-001 and Assessor Parcel No. 404-141-004 associated with the Brainard mill site. The Purchase and Sale Agreement for the permanent and temporary easements associated with the Brainard mill site is contained in Attachment 3.

The permanent easement would be situated along the levee surrounding the Brainard mill site. The trail would extend along the top of the levee for a length of approximately 5,200 feet. Fencing and gates would be placed to separate the trail from the interior of the property. The Project design includes minimum ground surface elevations on the levee crest to maintain flood protection capacity. Bridges would be installed near the southern and northern ends of the mill site to connect the levee to the railroad corridor. Viewing platforms are being considered at locations where the levee widens.

Locating the trail along the levee rather than along the railroad corridor was selected to avoid crossing the main and secondary entrances to the Brainard property and to avoid passing near the southern stand of mature Eucalyptus trees. With this alignment, the potential for conflicts and safety hazards will be reduced. In addition, the levee trail will provide a superior experience compared to traveling adjacent to the highway.

The temporary construction easement would allow a temporary right to use a total of six (6) areas within the interior of the Brainard mill site for construction access and staging.

BRI prepared an Appraisal Report dated Oct. 15, 2019. The appraisal results were adjusted to account for the unique nature of the proposed easements and the configuration of the property. Assessor Parcel No. 017-081-001 and Assessor Parcel No. 404-141-004 were appraised as industrial land at a value of \$1.25 per square feet. The area of the levee easement is approximately 348,480 feet. For the purpose of the purchase offer, the permanent levee easement was valued at 75% of the industrial land value, yielding a value of \$326,700. A permanent access right to the interior roadways (present and future) was valued at 33% of the levee easement value, yielding a value of \$107,811. The temporary construction easement covers a total of approximately 175,000 square feet. At an appraised rental rate of \$0.05 per square feet per month and a duration of 30 months, the total value of the temporary construction easement is \$262,500. The rounded sum of \$326,700 and \$107,811 and \$262,500 is \$700,000, which represents Fair Market Value. The purchase offer includes a sum of \$70,000 representing an additional 10% above Fair Market Value to ensure the timeliness of reaching agreement through negotiation rather than litigation in the form of eminent domain action. The total purchase price for the permanent easement, permanent access rights to the mill site, and the temporary construction easement is \$770,000.

The easement deed for the proposed acquisitions is contained in Exhibit C of the Purchase and Sale Agreement (Attachment 3). The easement deed contains provisions detailing the responsibilities for construction and maintenance of the trail and for maintenance, repairs, upgrades, and improvements of the levee. Humboldt County would be responsible for normal levee maintenance activities except for maintaining the interior drainage ditch and any water or stormwater facilities in the vicinity of the levee. Humboldt County and the property owner would equally share the permitting and constructing cost for non-emergency levee repairs or improvements and for emergency repairs when no disaster relief funding is available. If the levee is damaged as a result of a declared disaster and state or federal disaster relief funding is available for levee repairs, then any required cost-share would be paid 75% by Humboldt County and 25% by the property owner.

Soil and Groundwater Sampling

Public Works retained GHD, Inc. to perform soil and groundwater sampling to screen for the potential presence of chemical constituents of concern. Soil samples from Assessor Parcel No. 501-241-031, Assessor Parcel No. 017-081-001, and Assessor Parcel No. 404-141-004 contained detectable concentrations of total petroleum hydrocarbons, metals, and dioxins/furans. All detections were at levels below applicable health screening levels and hazardous waste criteria, except one (1) soil sample from Assessor Parcel No. 501-241-031 contained a concentration of arsenic exceeding the California hazardous waste characterization concentration. Public Works will prepare a Soil and Groundwater Management Plan prior to construction to ensure soil and groundwater are handled and disposed of in accordance with current regulations.

Public Notice

Public notice of the Humboldt County Board of Supervisors' intention to consider approving the acquisition of the Subject Property was given pursuant to Government Code section 25350 by publishing the Notice of Intention to Purchase Real Property in the North Coast Journal on Oct. 28, Nov. 4, and Nov. 11, 2021 (Attachment 4).

FINANCIAL IMPACT:

The California Transportation Commission has allocated \$2 million for the right-of-way phase and \$13.3 million for the construction phase of the Project. Caltrans has committed additional funding of \$1.25 million and the State Coastal Conservancy has committed additional funding of \$2 million for construction. Funds to acquire the interest in real property described herein are incorporated into the approved fiscal year 2020-21 budget for 1710715 (Bicycles & Trailways Program) at revenue line 1710715-523190 and expenditure line 1710715-8946. The proposed acquisitions described herein would not affect the County General Fund.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing for and maintaining infrastructure and creating opportunities for improved safety and health.

OTHER AGENCY INVOLVEMENT:

California Department of Transportation, California Transportation Commission, North Coast Railroad Authority

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the interest in real property described herein. This alternative is not recommended because it would result in incomplete right-of-way that would preclude completion of the Humboldt Bay Trail South Project.

The Board could choose to pursue eminent domain action. Eminent domain is the power of a public agency to purchase private property for a public use with payment of just compensation to the property owner. The determination of just compensation would be determined through an appraisal process very similar to what has already been conducted. This alternative is not recommended because the owners of the affected properties have willingly agreed to the attached Purchase and Sale Agreements, and the “just compensation” determined through an eminent domain process is likely to be comparable to the purchase prices in the Purchase and Sale Agreements. In addition, this alternative would delay the Project and risk losing right-of-way funding. The deadline for making expenditures under the right-of-way phase of this Project is Feb. 28, 2022. Thus, a delay could result in loss of access to the funding necessary for acquiring the interests in real property needed for the Project.

For the proposed acquisition of Assessor Parcel No. 501-241-031, the Board could choose to wait for the outcome of NCRA’s railbanking application which is under consideration by the federal Surface Transportation Board (“STB”). If STB approves NCRA’s railbanking application, Humboldt County could propose amending the lease agreement with NCRA to include a provision authorizing Humboldt County to utilize the railroad corridor for interim trail use under NCRA’s railbanking order from STB. This alternative is not recommended because the timeline for STB’s determination on NCRA’s railbanking application is unknown and the outcome is uncertain. In addition, this alternative would delay the Project and risk losing right-of-way funding as described above.

ATTACHMENTS:

- 1 Overview Maps
- 2 Purchase and Sale Agreement and Temporary Construction Easement between Bracut Lumber Company and Humboldt County
- 3 Purchase and Sale Agreement between California Redwood Company and Humboldt County
- 4 Affidavit of Public Notice

PREVIOUS ACTION/REFERRAL:

Board Order No.: I-1
Meeting of: Oct. 6, 2020
File No.: 20-1256