

City of Sacramento

Legislation Text

File #: 2019-00610, Version: 1

Title:

Agreement, Budgetary Adjustments, Closure of a Related Project, and Resolutions of Necessity: Sacramento River Parkway Project (K15185000) [Two-Thirds Vote Required] (Noticed 04/30/2019)

File ID: 2019-00610

Location: Sacramento River Levee top between Garcia Bend Park and 6880 Arabella Way, District 7

Recommendation:

Conduct a public hearing and upon conclusion adopt: A) a Resolution: 1) authorizing the City Manager or the City Manager's designee to execute an agreement with the California Department of Transportation (Caltrans) accepting \$210,000 (CIP Reimbursable Fund, Fund 3702) as a portion of the settlement for litigation brought against Caltrans by the Environmental Council of Sacramento; 2) authorizing the City Manager or the City Manager's designee to: a) increase the revenue and expenditure budgets of the Sacramento River Parkway Project (K15185000) by \$210,000 (CIP Reimbursable Fund, Fund 3702) to reflect the terms of the agreement with Caltrans; b) transfer \$369,655 (Measure U, Fund 2401) from the expenditure budget of the Garcia Bend Bike Trail Study Project (K15165000) to the expenditure budget of the Sacramento River Parkway Project (K15185000); and c) transfer \$274,830 (General Fund, Fund 1001) allocated for the Garcia Bend Path Crossing from the expenditure budget of the Bikeway Improvements and Alternative Modes Project (K15185100) to the expenditure budget of the Sacramento River Parkway Project (K15185000); 3) amending the project scope of the Sacramento River Parkway Project (K15185000) to include the project scope of the Garcia Bend Bike Trail Study Project (K15165000) and closing the Garcia Bend Bike Trail Study Project (K15165000); 4) amending the project scope of the Sacramento River Parkway Project (K15185000) to include environmental documentation, right of way activities, design, and construction for the entire Sacramento River Parkway within the Pocket Neighborhood; and 5) authorizing the City Manager or the City Manager's designee to execute an agreement with Robert Thomas Dias, Sr. and Betty L. Dias, Trustees, UDT dated April 5, 1985 for the acquisition of certain real property interests within parcel 031-0040-039 in an amount not to exceed \$136,000; B) a Resolution of Necessity: 1) determining that the public interest and necessity require the acquisition of certain real property interests within parcel 031-0420-025 (the "Gullans/Camilo Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of pre-judgment possession; C) a Resolution of Necessity: 1) determining that the public interest and

necessity require the acquisition of certain real property interests within parcel 031-0040-009 (the "Favila Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of prejudgment possession; D) a Resolution of Necessity: 1) determining that the public interest and necessity require the acquisition of certain real property interests within parcel 031-0860-004 (the "Murphy Enterprises Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of prejudgment possession; E) a Resolution of Necessity: 1) determining that the public interest and necessity require the acquisition of certain real property interests within parcel 031-0860-003 (the "Murphy Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of prejudgment possession; F) a Resolution of Necessity: 1) determining that the public interest and necessity require the acquisition of certain real property interests within parcel 031-0860-032 (the "Groza Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of prejudgment possession; G) a Resolution of Necessity: 1) determining that the public interest and necessity require the acquisition of certain real property interests within parcel 031-0020-027 (the "Jones Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of prejudgment possession; and H) a Resolution of Necessity: 1) determining that the public interest and necessity require the acquisition of certain real property interests within parcel 031-0040-039 (the "Dias Property") by eminent domain for the Sacramento River Parkway Project (K15185000); 2) authorizing the City Attorney or the City Attorney's designee to commence eminent domain proceedings; and 3) authorizing the City Attorney or the City Attorney's designee to file a motion for an order of prejudgment possession.

Contact: Adam Randolph, Senior Engineer, (916) 808-7803; Nader Kamal, Interim Engineering Services Manager, (916) 808-7035, Department of Public Works

Presenter: Adam Randolph, Senior Engineer, (916) 808-7803, Department of Public Works

Attachments:

- 01-Description/Analysis
- 02-Resolution - Administrative and Budgetary Actions
- 03-Caltrans Funding Agreement
- 04-Property Owner Acquisition Agreement - Dias

- 05-Resolution - Gullans/Camilo
- 06-Exhibit A and B - Gullans/Camilo Recreation Easement Deed with Plat and Legal Description
- 07-Resolution - Favila
- 08-Exhibit A and B - Favila Recreation Easement Deed with Plat and Legal Description
- 09-Resolution - Murphy Enterprises
- 10-Exhibit A and B - Murphy Enterprises Recreation Easement Deed with Plat and Legal Description
- 11-Resolution - Murphy
- 12-Exhibit A and B - Murphy Recreation Easement Deed with Plat and Legal Description
- 13-Resolution - Groza
- 14-Exhibit A and B - Groza Recreation Easement Deed with Plat and Legal Description
- 15-Resolution - Jones
- 16-Exhibit A and B - Jones Recreation Easement Deed with Plat and Legal Description
- 17-Resolution - Dias
- 18-Exhibit A and B - Dias Recreation Easement Deed with Plat and Legal Description

Description/Analysis

Issue Detail: The City's proposed Sacramento River Parkway Project (K15185000) will include a 1.85-mile segment of paved bicycle and pedestrian trail between the Pocket Canal Trail network at the Garcia Bend Park and Arabella Way. This 1.85-mile segment (the "Project"), also referred to as the Central Pocket Levee Trail segment, is a key piece in the ultimate plan to create a continuous riverfront trail network through the City of Sacramento, beginning at the Freeport Water Tower and ending at Watt Avenue. The bike trail will continue east and become part of the larger American River Parkway bike trail. The Project will create both commuting and recreational opportunities, enhance public safety, and encourage active transportation by expanding the off-street trail network.

City staff is requesting Council authorization to acquire \$210,000 in funding from Caltrans pursuant to a 2014 settlement between Caltrans and the Environmental Council of Sacramento related to the environmental review of the Interstate-5 Bus/Carpool Lanes Project. Such funds would then be transferred to the Project budget. Pursuant to the terms of the settlement, Caltrans was required to pay the City \$210,000 (from the New Measure A Funds) towards the Project. Staff is also requesting authorization to consolidate funding among related projects to more efficiently move ahead with the Project and to update the Project scope to include what was previously called the Garcia Bend Bike Trail Study Project and all environmental, right of way, design, and construction activities for the Project.

Construction of the Project also requires the City to acquire property interests (referred to collectively in this Staff Report as the "Acquisition Property") from several property owners adjacent to the Sacramento River Levee, including the property owners described in Section (B) below. The

Acquisition Property is located on top of the existing levee. The City has engaged in good faith negotiations with the property owners for approximately 413 days, as of the day of this hearing, without agreement. To enable the City to complete the Project, staff recommends that the City Council adopt Resolutions of Necessity to begin the eminent domain process. City staff will continue good faith negotiations in parallel with eminent domain proceedings in an effort to reach agreement with the property owners. Pursuant to California Code of Civil Procedure section 1245.235, the property owners of the Acquisition Property, as specifically described below in Section (B), were sent notices dated April 30, 2019, informing them of the City's intent to conduct a hearing regarding the proposed acquisition of the Acquisition Property by eminent domain.

Findings Required to Support Adoption of Resolutions of Necessity

The City Council must adopt a Resolution of Necessity prior to exercising the power of eminent domain. (California Code of Civil Procedure, § 1240.040.) Pursuant to California Code of Civil Procedure section 1245.230, a Resolution of Necessity must contain certain findings. These findings are supported as follows:

A. A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the public entity to acquire the property by eminent domain.

The public use for which the Acquisition Property is to be taken is the following:

The Project will result in construction of a 1.85-mile segment of the Sacramento River Parkway, which will be a levee top multi-use trail along the east levee of the Sacramento River. Implementation of this trail will activate recreational mobility of this natural space and riverfront amenity for the adjacent community and Sacramento's growing population. This riverfront trail will provide bicycle and pedestrian travel options for the community separate from vehicular traffic on the street network. Significant public health, environmental, and social benefits will also be realized with the implementation of active transportation and recreational trail facilities. Parkway trails can be expected to be used for commuting, recreation, and education including walking, running, skating, biking, dog walking, wildlife watching, and nature study within or immediately adjacent to the Sacramento River's riparian habitat corridor.

The following statutes and constitutional section authorize the City to acquire the Acquisition Property by eminent domain:

- Article I, Section 19 of the California Constitution.
- California Government Code sections 37350.5 and 40404.
- California Streets and Highways Code section 10102.
- California Code of Civil Procedure sections 1240.010, 1240.110, 1240.120, 1240.510 and

1240.610.

B. A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.

The Acquisition Property is described as follows:

John F. Gullans and Ms. Helena M. Camilo; APN (portion of) 031-0420-025 (“Gullans/Camilo Property”): This parcel is located at 207 River Acres Drive. The Project requires the permanent acquisition of a 4,378-square foot (0.10 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 7 attached hereto.

Jaime and Kathryn Favila; APN (portion of) 031-0040-009 (“Favila Property”): This parcel is located at 7140 Pocket Road. The Project requires the permanent acquisition of a 2,224-square foot (0.05 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 9 attached hereto.

Murphy Enterprises L.P.; APN (portion of) 031-0860-004 (“Murphy Enterprises Property”): This parcel is located at 7250 Pocket Road. The Project requires the permanent acquisition of a 4,352-square foot (0.10 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 11 attached hereto.

Donald A. Murphy 10-Year Residence Trust and Donald A. Murphy 12-Year Residence Trust; APN (portion of) 031-0860-003 (“Murphy Property”): This parcel is located at 7260 Pocket Road. The Project requires the permanent acquisition of a 6,533-square foot (0.15 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 13 attached hereto.

Billyann Groza Revocable Trust; APN (portion of) 031-0860-032 (“Groza Property”): This parcel is located at 7454 Pocket Road. The Project requires the permanent acquisition of a 4,028-square foot (0.09 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 15 attached hereto.

George D. Jones and Janet M. Jones; APN (portion of) 031-0020-027 (“Jones Property”): This parcel is located at 7370 Pocket Road. The Project requires the permanent acquisition of a 2,808-square foot (0.06 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 17

attached hereto.

Robert Thomas Dias Sr. and Betty L. Dias Living Trust; APN (portion of) 031-0040-039 (“Dias Property”): This parcel is located at 7150 Pocket Road. The Project requires the permanent acquisition of a 4,388-square foot (0.10 Acre) area on this parcel to accommodate the proposed Sacramento River Parkway. The legal descriptions and maps depicting this proposed acquisition are set forth in Attachment 19 attached hereto.

C. A declaration that the governing body of the public entity has found and determined each of the following:

(1) The public interest and necessity require the proposed project.

Active Transportation and Mobility Options - Consistent with the City’s Bikeway Master Plan, with the implementation of a Class I path, the Sacramento River Parkway would be considered as a backbone for City-wide low stress bicycle network. Every neighborhood park should be accessible via low stress bikeways to connect communities and gathering spaces. The Project will address active transportation needs including: implementing a low stress bikeway that serves all ages and abilities; meeting community identified need to complete this network gap; and providing a vital connection for non-vehicular travel. The Class I Path will be a significant improvement over the on-street network through the Pocket area. The path will be a low stress bicycling and accessible walking facility that will have strong appeal for a broad group of residents who are not comfortable bicycling on-street with traffic. This Project creates a new route that separates bicyclists and pedestrians from on-street vehicle traffic which will reduce bicycle-vehicle and pedestrian-vehicle conflict areas. The bikeway will also connect to a nearby park and a community trail network.

American and Sacramento Rivers Parkway Plan Consistency - The Project supports the City’s American and Sacramento River Parkway Plans, furthering the goal of completing a continuous multi-use public trail “on-river” between Freeport Boulevard and Garden Highway.

General Plan Consistency - The Project supports the City’s 2035 General Plan goals of improving the transportation system; expanding public safety; achieving sustainability through reduced dependence on the private automobile; enhancing livability and economic vitality; protecting the City’s historic and cultural resources and its natural environment; and increases access to the riverfront and open spaces for the enjoyment of Sacramento’s growing population.

Due to the above-mentioned transportation and mobility needs that the Project will address, consistency with the City’s American and Sacramento River Parkway Plans, and consistency with the City’s General Plan and the Bikeway Master Plan, the public interest and necessity require the Project.

(2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

The Project provides significant public benefits including:

- Improved public safety by activating a space for public use and by creating an off-street bicycle and pedestrian route separate from vehicular travel.
- Improved facilities for alternate modes of transportation (i.e. bicycle and pedestrian).
- Appropriate access and facilities for the enjoyment of the Sacramento River Parkway by present and future generations.

During environmental review of the Project, multiple alternatives were considered, including a no-build alternative and an alternative to place the trail “on-street” for this proposed segment. The other alternatives considered either: 1) did not provide the same public benefit; or 2) did not adequately address the purpose and need of the Project.

In analyzing the public benefit versus private injury, City staff assessed whether the property owners would be injured in such a way that their injury outweighed the overall public benefit. In this circumstance, the resulting property impacts cause a perceived loss of privacy to property owners. Given that the levee top is currently subject to an easement held by the Sacramento and San Joaquin Drainage District, accessed on a regular basis by City and State maintenance personnel, and regularly accessed by the general public, this privacy loss is less significant than the benefits that will accrue to the rest of the community by having a continuous multi-use trail. Therefore, the public benefit of this Project, due to the enhancement of public safety by activating the Sacramento River Parkway for public recreational use, increased health benefits for the community by creating access and connections for facilitating alternate modes of transportation, and enjoyment of the Sacramento River Parkway by present and future generations outweighs the potential of private injury to the property owners. Thus, the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(3) The property described in the resolution is necessary for the proposed project.

The Project requires the acquisition of public recreation easements on the Acquisition Properties over area already encumbered with levee easements held by the Sacramento and San Joaquin Drainage District. Without such acquisitions, the Project becomes infeasible because there would be a gap in the trail. There cannot be a continuous trail without the City’s acquisition of the Acquisition Property.

(4) That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

The City made written offers dated April 3, 2018, as required by California Government Code section 7267.2 to the property owners for acquisition of a recreation easement. The offers were based on an appraised value for the property interests to be acquired and were made in accordance with Government Code section 7267.2. Except for the Dias Property, these formal offers were rejected by the Acquisition Property owners and no counter offers have been submitted by the Acquisition Property owners.

Policy Considerations: The Project supports the City's 2035 General Plan goals of improving the transportation system; expanding public safety; achieving sustainability through reduced dependence on the private automobile; enhancing livability and economic vitality; protecting the City's historic and cultural resources and its natural environment; and increases access to the riverfront and open spaces for the enjoyment of Sacramento's growing population. It is consistent with the Sacramento River Parkway Plan, American River Parkway Plan, and the Sacramento Bikeway Master Plan.

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): On October 21, 1997, The City Council certified a programmatic Environmental Impact Report ("1997 EIR") and adopted Findings of Fact, a Statement of Overriding Considerations, and a Mitigated Monitoring Plan for the Sacramento River Parkway Plan Update (Resolution No. 1997-0590). On April 2, 2019, following completion of an Initial Study, the City Council: approved an Addendum to the 1997 EIR; re-certified the 1997 EIR with the Addendum; re-adopted the Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring Plan; and approved the preliminary design plan for the Sacramento River Parkway Project - Central Pocket Levee Trail segment (K15185000). (Resolution No. 2019-0099).

The Central Pocket Levee Trail segment is consistent with the Sacramento River Parkway Plan Update as analyzed in the 1997 EIR and the Central Pocket Levee Trail segment does not require any changes to the Sacramento River Parkway Plan. The Initial Study determined that the analysis of impacts and the mitigation measures in the 1997 EIR is adequate to approve the Central Pocket Levee Trail segment by means of an Addendum. The more recent 2035 General Plan EIR and the SAFCA EIR for the upcoming levee improvement project were reviewed to determine if there was any new information of substantial importance or changed circumstances with regard to the proposed project that would trigger the need for a subsequent or supplement EIR. No such new information or changed circumstances were found.

Because the requirements under the California Environmental Quality Act (CEQA) Guidelines Sections 15162 and California Public Resources Code 21166 provide that no further environmental review of the project is required unless there are substantial changes to the project, changed circumstances, or new information of substantial importance, an Addendum

was prepared in accordance with CEQA Guidelines Section 15164. The Addendum can be found at: <http://www.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports.aspx>

Sustainability: This Project is consistent with the City's General Plan goals to enhance pedestrian facilities in the public right-of-way and to encourage bicycle and pedestrian trips with increased connectivity of the Sacramento River Parkway.

Commission/Committee Action: None

Rationale for Recommendation: Elements of the Sacramento River Parkway implementation have been proposed at various connections and through different funding sources. To better streamline the efficient delivery of the Project, staff is recommending that the project elements and funding sources be combined into one capital improvement project, the Sacramento River Parkway Project (K15185000). The Sacramento River Parkway Project (K15185000) will deliver the Garcia Bend elements as originally intended. The Sacramento River Parkway Project (K15185000) will also deliver the Garcia Bend Path Crossing elements as originally intended. Further, acquisition of the Acquisition Property is necessary for the Project. Contract bidding and construction cannot take place until the City has obtained the property interests mentioned in this report.

Financial Considerations: In 2013, Caltrans entered a Settlement Agreement with the Environmental Council of Sacramento wherein Caltrans agreed to provide \$210,000 in New Measure A funds to the City of Sacramento to be used towards the project development, construction, maintenance, or improvement of the extension of the Sacramento River Bike Trail to the Pocket and Little Pocket Areas. Payment will be made after a funding agreement is executed between both parties, and within 60 days after the City submits an invoice to Caltrans.

The City must provide just compensation to the property owners for the City's acquisition of the Acquisition Property. Upon approval of the transfers of \$369,655 (Measure U Fund, Fund 2401) from the Garcia Bend Trail Study (K15165000) and \$274,830 (General Fund, Fund 1001) allocated for the Garcia Bend Path Crossing from the Bikeway Improvement and Alternative Modes Project (K15185100), and the increase of \$210,000 (CIP Reimbursable Fund, Fund 3702) to the revenue and expenditure budgets of the Sacramento River Parkway Project (K15185000) per the Caltrans agreement, sufficient funding will be available in the Sacramento River Parkway Project (K15185000) to fund the \$136,000 amount in the Dias Property acquisition agreement and to fund compensation identified in the Acquisition Property appraisals.

There is sufficient funding in the Garcia Bend Trail Study Project (K15165000) and the Bikeway Improvements and Alternative Modes Project (K15185100) to complete the above transfers.

Upon completion of the transfer, the Garcia Bend Trail Study Project (K15165000) will be closed.

Local Business Enterprise (LBE): Not applicable.

Background: In 1975, the City Council took the first formal action to recognize the need for providing recreational use along the Sacramento Riverfront by adopting a Feasibility Study and Sacramento River Parkway Master Plan (1975 Plan). The 1975 Plan introduced the concept of developing a public access recreation trail along the Sacramento River, coupled with natural resource protection and enhancement.

In 1997, an update to the Sacramento River Parkway Plan was adopted by passage of Resolutions 1997-590 through 594. These actions updated the Sacramento River Parkway Plan and the City/County Bikeway Master Plan was amended to include the proposed off-street multi-use trail along the Sacramento River. The 1997 Sacramento River Parkway Plan retained the core values of the 1975 Plan and added guiding policies that addressed security, privacy and design issues. The 1997 Plan included a map showing proposed off-street segments where they did not currently exist “on-river” along the levee of the entire Sacramento River within the City. The purpose of the Plan is to create a continuous Class I multi-use trail along the river from the City limits to downtown for local and regional recreation and commuter travel. Thereafter, the City’s General Plan has included the off-street multi-use trail along the Sacramento River levee.

In 2000, the City Council adopted Resolution No. 2000-0464 to accept the Sacramento River Greenway Plan (Greenway Plan) as an advisory document. The Greenway Plan was prepared by the State Lands Commission, with the assistance of the cities of Sacramento and West Sacramento, and the counties of Yolo and Sacramento. The Greenway Plan complements the 1997 Sacramento River Parkway Plan such that it is intended as a regional planning tool to coordinate resource management and public recreation access to both sides of the Sacramento River.

In 2012, the City Council approved the American & Sacramento River Parkway Plans 2012 Implementation Program by Resolution 2012-390. This document outlined the procedures to acquire the necessary easement rights within the Pocket area to complete the missing segments of the trail as set forth in the Sacramento River Parkway Plan.

In 2014, Caltrans entered into a Settlement Agreement with the Environmental Council of Sacramento wherein Caltrans agreed to “provide to the City of Sacramento, from the New Measure A Funds the amount of \$210,000 to be used towards the project development, construction, maintenance, or improvement of the extension of the Sacramento River Bike Trail to the Pocket and Little Pocket Areas.”

In July 2015, the Garcia Bend Trail Study (K15165000) Capital Improvement Project (CIP) was established to perform preliminary engineering, scoping, environmental, public outreach and design for a Class I bike trail connection from Pocket Road through the Pocket Canal pump station, and

along the top of the Sacramento River Levee south to Garcia Bend Park.

In July 2017, the Bikeway Improvement and Alternative Modes Project (K15185100) included \$274,830 (General Fund, Fund 1001) set aside for the Garcia Bend Path Crossing.

In July 2017, the Sacramento River Parkway Bike Trail (K15185000) Capital Improvement Project (CIP) was established to complete environmental documentation and acquire necessary easement rights for the Central Pocket Levee Trail Project segment.

In April 2019, Resolution No. 2019-0098 approved preliminary engineering plans for the Central Pocket Levee Trail Project, which is consistent with the Sacramento River Parkway Plan. The Project would pave 1.85 miles of the Sacramento levee to extend the existing paved levee trail northward. The trail width would be 16 feet of which 12 feet would be paved and two-foot shoulders on each side provided in accordance with City off-street multi-use trail standards.