

STATE ROUTE 4 BYPASS AUTHORITY
Antioch - Brentwood - Oakley and Contra Costa County

A JOINT EXERCISE OF POWERS AGENCY

MINUTES
November 10, 2005

The STATE ROUTE 4 BYPASS AUTHORITY meeting was called to order in the Tri-Delta Transit Meeting Room, 801 Wilbur Avenue, Antioch, California by Chair Brad Nix at 7:16 P.M.

ROLL CALL

PRESENT: Annette Beckstrand (Brentwood), Donald Freitas (Antioch), Mary N. Piepho (Contra Costa County) and Chair Brad Nix (Oakley)

ABSENT: None

STAFF: Dale Dennis, Program Manager

PUBLIC COMMENT

There was no public comment.

CLOSED SESSION

Chair Nix adjourned into Closed Session at 7:16 P.M.

Conference with Legal Counsel – Existing Litigation (Government Code § 54956.9(a))

State Route 4 Bypass Authority vs. Jeffrey L. Armstrong, Trustee of the Jeffrey L. Armstrong Living Trust Under Declaration of Trust Dated November 9, 1994, et al., Contra Costa Superior Court Case No. C05-00838

Chair Nix reconvened at 7:23 P.M. and advised that there was no reportable action from the Closed Session.

PUBLIC HEARING

- A. CONDUCT a Public Hearing to Consider the Adoption of Resolution No. 2005/12, a Resolution of Necessity for acquisition by eminent domain of certain interests in real property necessary for the construction of the Laurel Road Extension Project. The properties are located on Laurel Road, Neroly Road and Live Oak Avenue between the Union Pacific Railroad tracks and Empire Avenue in the City of Oakley.

Lucy Owen, Contra Costa County Real Property Division staff, advised that this was the time to consider a Resolution of Necessity for acquisition by eminent domain of certain interests in real property necessary for the construction of the Laurel Road Extension Project. She noted that agreement had been reached with the property owners involved. She recommended that the public hearing be opened, that testimony be taken and that action be taken as outlined in the Board Order.

Chair Nix OPENED THE PUBLIC HEARING

There was no one to speak to the item.

Chair Nix CLOSED THE PUBLIC HEARING

On motion by Director Freitas, seconded by Director Beckstrand, the Board unanimously adopted Resolution 2005/12.

CONSENT ITEMS

After removing Items B and D from the Consent calendar, on motion by Director Freitas, seconded by Director Beckstrand, the Board unanimously adopted the following Consent Items:

- A. APPROVED minutes of October 13, 2005 meeting.
- C. APPROVED amendment to Consulting Services Agreement with Parikh Consultants in the amount of \$49,940 (for a not-to-exceed total contract amount of \$559,474.10) to complete the environmental site assessment activities at the former Brentwood Gun Club site, including an asbestos and lead paint survey on existing structures prior to demolition, and AUTHORIZED the Secretary or designee to sign it on behalf of the Authority.
- E. APPROVED an amendment to the Consulting Services Agreement with Harris and Associates in the amount of \$99,800 (for a not-to-exceed total contract amount of \$2,755,029) to complete the inspection of the Marsh Creek Road Tree Removal Project, activities in the Segment 2 right of way corridor and currently assigned Authority issued encroachment permits and extend the term of the contract through June 30, 2006, and AUTHORIZED the Secretary or designee to sign it on behalf of the Authority.
- F. AWARDED SR4 Bypass Project, Segment 3 Gun Club Demolition Contract to WC Maloney, the lowest responsive and responsible bidder, in the amount of \$88,000,

and AUTHORIZED the Secretary or designee to sign it on behalf of the Authority.

- G. APPROVED the Right of Way Contracts and ACCEPTED the Grant Deed and Temporary Construction Easement listed below:

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Virginia Therese Shaffer	Grant Deed	10-19-05	Placer Title Co. Escrow #615-8031 1981 N. Broadway #100 Walnut Creek, CA 94596	\$104,000
John M. Joseph, Sr, TRE Virgilia J. Joseph, TRE	Temporary Construction Easement	10-26-05	No Monetary Payment	

1. AUTHORIZED the Secretary to the Authority, or designee, to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority.
2. APPROVED payment as listed above for said property rights and AUTHORIZED the Auditor-Controller to issue a check in said amount payable to the listed payee, to be forwarded to the Real Property Division for delivery.
3. DIRECTED the Real Property Division of Contra Costa County to have the above referenced Grant Deed delivered to Placer Title Company for recording in the office of the Contra Costa County Recorder; and DIRECTED the Real Property Division of Contra Costa County to have the Temporary Construction Easement recorded in the office of the Contra Costa County Recorder.

- H. APPROVED the Right of Way Contracts and ACCEPTED the Grant Deeds and Easement Deed listed below:

<u>Grantors</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Rodney E. Pagenkopp, TRE Julie A. Pagenkopp, TRE and Robert E. Pagenkopp, TRE Pauline F. Pagenkopp, TRE	Grant Deed Easement Deed	09-27-05 09-27-05	Placer Title Co. Escrow #615-7708 1981 N. Broadway #100 Walnut Creek, CA 94596	\$1,910
Mike Ambrosino Lucille Ambrosino	Grant Deed	10-24-05	Placer Title Co. Escrow #615-9148 1981 N. Broadway #100	\$30,525

Walnut Creek, CA 94596

Harry Roy Geddes, Trustee	Temporary Construction Easement	10-27-05	Harry Roy Geddes	\$51,340
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1. AUTHORIZED the Secretary to the Authority, or designee, to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority.
2. APPROVED payments as listed above for said property rights and AUTHORIZED the Auditor-Controller to issue checks in said amounts payable to the listed payees, to be forwarded to the Real Property Division for delivery.
3. DIRECTED the Real Property Division of Contra Costa County to have the above referenced Grant Deeds and Easement Deed delivered to Placer Title Company for recording in the office of the Contra Costa County Recorder.

The following items were removed from the Consent calendar for discussion:

- B. APPROVE amendment to Consulting Services Agreement with Biggs Cardosa Associates in the amount of \$14,200 (for a not-to-exceed total contract amount of \$192,700) to assist the Segment 3 Design Team to respond to Caltrans comments and constructability and biddability comments on the structural design plans and special provisions, and AUTHORIZE the Secretary or designee to sign it on behalf of the Authority.

Director Freitas questioned the multiple rounds of review comments by Biggs Cardosa, expressed a dislike for change orders, and commented about the desirability of providing for such services up front, suggesting that the Authority would be better served in that regard.

On motion by Director Freitas, seconded by Director Beckstrand, the Board unanimously APPROVED the above amendment with Biggs Cardosa and AUTHORIZED the Secretary or designee to sign it.

- D.1 APPROVE Utility Agreement with East Contra Costa Irrigation District (ECCID) in the amount of \$697,615 for the design and relocation of the above-and below-ground irrigation facilities in Segment 3, and AUTHORIZE the Secretary or designee to sign it on behalf of the Authority.
- D.2 APPROVE project design; and AWARD construction contract for the State Route 4

Bypass, Segment 3 - Undergrounding and Relocation of ECCID Facilities Project to McGuire and Hester, the lowest responsive and responsible bidder, in the amount of \$594,215 and AUTHORIZE the Secretary or designee to sign it on behalf of the Authority.

Mr. Dennis reported that the Board had authorized the Program Manager to advertise the contract with the ECCID a couple of months ago with an intent to award a contract in November. Discussion followed about the time for completing the work, seasonal shutdown of the ECCID canals, and including the East County Transportation Improvement Authority (ECTIA) in the hold harmless provision in the construction contract.

On motion by Director Freitas, seconded by Director Beckstrand, the Board unanimously took the following actions, directing that ECTIA be included under the hold harmless provision in the construction contract:

1. DETERMINED that the Undergrounding and Relocation of ECCID Facilities Project is in compliance with the California Environmental Quality Act (Public Resources Code §21000, *et seq.*), and has been fully analyzed in the following documents: State Route 4 Bypass Environmental Impact Report certified by the Authority on December 14, 1994; subsequent Addenda to the Environmental Impact Report for the State Route 4 Bypass Project; the most recent Addendum (specific to Segment 3) adopted by the Authority on October 14, 2004.
2. APPROVED Utility Agreement with ECCID in the amount of \$697,615 for the design and relocation of the above and below ground irrigation facilities in Segment 3, and AUTHORIZED the Secretary or designee to sign it on behalf of the Authority.
3. APPROVED the entire Project design, including the plans, specifications, contract, notice to contractors, special provisions, and Addenda Nos. 1 and 2, on behalf of the Authority and its member agencies.
4. APPROVED the construction contract for furnishing labor and materials for the Undergrounding and Relocation of ECCID Facilities Project to McGuire and Hester, the lowest responsive and responsible bidder, in the amount of \$594,215 and REQUIRED the contractor to present surety bonds for Payment and Faithful Performance in the amount of \$594,215 and \$594,215 respectively.
5. DIRECTED the Secretary or designee to prepare the contract documents

for the project.

6. AUTHORIZED the Secretary or designee to sign the contract on behalf of the Board subject to the Secretary or designee having reviewed and found sufficient all required documents, including the contract signed by the contractor and the required surety bonds and evidence of insurance.
7. DIRECTED that, in accordance with the project specifications and/or upon the execution of the contract by the Secretary or designee, any bid bonds posted by the bidders be exonerated and any checks or cash submitted for bid security be returned.
8. AUTHORIZED the Secretary or designee to sign any escrow agreements prepared for this project to permit direct payment of retention into escrow or the substitution of securities for moneys withheld by the Authority to ensure performance under the contract pursuant to Public Contract Code Section 22300.
9. Pursuant to Public Contract Code Section 4114, DELEGATED the Board's functions under Public Contract Code Sections 4107 and 4110 to the Secretary or designee.
10. Pursuant to Section 6705 of the Labor Code, DELEGATED to the Secretary or to any registered civil or structural engineer designated by him the authority to accept detailed plans showing the design of shoring, bracing, sloping or other provisions to be made for worker protection during trench excavating covered by that section.
11. DECLARED that, should the contract award be invalidated for any reason, the Board in any event would not have awarded the contract to the second listed bidder or any other bidder but instead would have exercised its discretion to reject all of the bids received. Nothing herein shall prevent the Board from awarding the contract to another bidder in cases where the successful bidder establishes a mistake, refuses to sign the contract, or fails to furnish required bonds or insurance (see Public Contract Code Sections 5100-5107).

DETERMINATION ITEMS

- A. RECEIVE Status Report on the SR4 Bypass Project and the Laurel Road Extension Project

Program Manager Dale Dennis gave the following report. With respect to the SR4 Bypass Project, Segment 1 was under construction. The Laurel Road Extension Project was continuing with final right of way acquisition. The Resolution of Necessity adopted this date was the last eminent domain issue for the Laurel Road Extension project. It was expected that effective orders of possession would be completed by January 15, 2006. Staff was now moving forward to consider the process and procedure for the demolition of three of the residences that needed to be removed to allow the project to move forward. Asbestos abatement testing would be conducted in December with demolition by April 2006, and with the properties available for construction in May or June 2006.

With respect to Segment 3, Mr. Dennis reported that all required Resolutions of Necessity had been completed with the exception of the Byron Highway. Staff was awaiting design plans from PG&E to proceed with Byron Highway acquisitions. All other acquisitions have effective orders of possession no later than December 31, 2005. PG&E was currently conducting utility relocations for the portion of Marsh Creek west of Walnut. Tree removal and relocation of distribution facilities for PG&E east of Walnut would be conducted in January/February 2006. Everything was on schedule.

Pursuant to a previous request from Director Freitas, Mr. Dennis provided a cash flow report that included Segment 3 moving forward to construction in Spring 2006.

Further discussion followed, with Director Beckstrand asking how certain staff was with PG&E's commitments in January. Mr. Dennis expressed his confidence with those commitments but indicated some uncertainty over the final plans for the 60kv and 21kv transmission lines. The current schedule from the PG&E Coordinator anticipated the completion of designs by the end of November with the relocation and extensions near the PG&E Gas Terminal to be performed in April or May 2006. The Byron Highway area remained an uncertainty but was expected by late summer 2006.

- B. RECEIVE status report on the construction of Segment 1, Packages 1 and 2 and APPROVE Contract Change Order No. 33 with Bay Cities Paving and Grading in the estimated cost of \$25,000 for Segment 1, Package 1, and AUTHORIZE the Secretary or designee to sign it on behalf of the Authority

Bart Littell of Parsons Brinckerhoff Construction Services presented updated photographs of the project site. With respect to Segment 1, he stated that traffic should be on the bridges by the next Board meeting. The contract was 80 percent complete and on schedule. For Package 2, the grading from Highway 4 to Lone Tree Way had been completed. The foundations for all five bridges were currently in process. Fine grading and other work would be done as weather permitted. The project was 25 percent complete

with a 10 percent time lapse.

On motion by Director Freitas, seconded by Director Beckstrand, the Board unanimously RECEIVED the above status reports and APPROVED Contract Change Order No. 33 with Bay Cities Paving and Grading and AUTHORIZED the Secretary or designee to sign it.

- C. AUTHORIZE the Program Manager to advertise Segment 3 for construction upon completion and approval by Caltrans of the final project plans, specifications, and estimate prepared by Contra Costa County Public Works Department, Design Division. Award of the construction contract will be subject to the approval of the Board of Directors at a future meeting.

Mr. Dennis referenced a letter to the Contra Costa Transportation Authority (CCTA) to amend the backstop agreement to provide a mechanism for CCTA to initiate a commercial paper program for a maximum of \$25 million in the event that the Authority experiences a cash flow shortage. Mr. Dennis reported that the Administration and Projects Committee (APC) of the CCTA had approved that amendment last week and the full CCTA Board would consider the item next week.

Based on the backstop agreement being amended to include the construction of Segment 3, Mr. Dennis reported that all plans were expected to be completed and approved by Caltrans by late November or early December. Staff would then be prepared to move forward with advertising for Segment 3, with contract award estimated to occur in February/March 2006 and construction to start in April/May 2006. If construction started in the spring, the Segment 3 contract should be completed by the end of 2007 at the same time that the Segment 1/Laurel Road Extension would be completed, with the entire facility to be open at that time, which would provide the facility required to move forward with the transfer and relinquishment of the Bypass to the State.

Mr. Dennis recommended that the Program Manager be authorized to advertise Segment 3 on the completion of Caltrans' approval of the plans.

On motion by Director Beckstrand, seconded by Director Piepho, the Board unanimously AUTHORIZED the Program Manager to advertise Segment 3 for construction upon completion of the final project plans, specifications and estimate (PS&E) by Contra Costa County Public Works Department, Engineering Design Division and approval of the PS&E by Caltrans.

- D. APPROVE Agreement with Trilogy Vineyards LLC that outlines the scope, schedule and Authority's share of the costs of certain common work to be constructed by Trilogy in Segment 3, in the amount of \$2,161,489 (Authority's share

of common work), and AUTHORIZE the Secretary or designee to sign it on behalf of the Authority.

Mr. Dennis informed the Board that the agreement would provide fee credits for common work being performed by the Vineyards but commented that the agreement as drafted was inconsistent with the present ECCRFFA policy for fee reduction for age-restricted housing.

PUBLIC COMMENTS:

Sandy Skaggs, representing Trilogy Vineyards LLC, an affiliate of Shea Homes, addressed the Board, indicating that the City of Brentwood had agreed to charge a reduced fee to Trilogy for the age-restricted housing. Mr. Skaggs stated that approval of the agreement and a reduced fee for age-restricted housing were two separate issues. He recommended that the agreement be approved as is. If that could not be done, he recommended the approval of the agreement with the Board deferring consideration of the request for reduced fees so that the issue could be addressed.

Considerable discussion followed between Board members, staff, and legal counsel. Based on discussion, Chair Nix recommended deferring the item to the next month with language to be crafted to satisfy the Board's concerns. Director Freitas expressed a willingness to meet in special session if necessary to approve the agreement.

On motion by Director Beckstrand, seconded by Director Freitas, the Board unanimously DEFERRED action on the agreement with Trilogy Vineyards and DIRECTED that staff further investigate the reduced fee issue and craft language to satisfy the Board's concerns.

BOARDMEMBER COMMENTS

Director Piepho reported that she had met with San Joaquin and Alameda County Supervisors who had expressed agreement to work together to address mutual issues.

CORRESPONDENCE

There was no correspondence.

PUBLIC COMMENTS

There were no Public Comments.

With no further business to come before the State Route 4 Bypass Authority, Chair Nix

adjourned the meeting at 8:26 P.M. to the next meeting scheduled for December 8, 2005. Subsequent to adjournment, Chair Nix reopened the SR4 Bypass Authority meeting at 8:32 P.M. to take action that had not previously been taken for an item on the agenda.

ADJOURNMENT

With no further business to come before the State Route 4 Bypass Authority, Chair Nix readjourned the meeting at 8:33 P.M. to the next meeting scheduled for December 8, 2005.

Respectfully submitted,

Anita L. Tucci-Smith
Minutes Clerk