



# ***Joint Exercise of Powers Agency***

*City of Antioch   City of Brentwood   County of Contra Costa   City of Oakley*

## **AGENDA Board of Directors**

**(No In-person Meeting)**

**Thursday, May 12, 2022**

**6:30 p.m.**

Tri-Delta Transit Meeting Room  
801 Wilbur Avenue  
Antioch, California

To slow the spread of COVID-19, in lieu of a public gathering, the State Route 4 Bypass Authority Board of Directors meeting will be accessible via Zoom to all members of the public as permitted by Government Code Section 54953(e). Members of the public may participate in the meeting online, or by telephone. To participate in the meeting please use the information.

To participate by phone, dial +17207072699 US, and meeting ID is 844 3139 0139  
Passcode: 588230

To participate online using Zoom, hold down CTRL + click the following:  
[Join Zoom Meeting Here](#) Meeting ID: 844 3139 0139 (Passcode: 588230).

In lieu of making public comments at the meeting, members of the public also may submit public comments before or during the meeting by emailing comments to Program Manager Dale Dennis at [dodennis@thecyberjungle.com](mailto:dodennis@thecyberjungle.com). If you have difficulty emailing a public comment, please contact Nancy Wein, Contra Costa County Public Works Department, at (925) 313-2275.

All comments submitted by email to the above email address before the conclusion of the meeting will be included in the record of the meeting. When feasible, the Board Chair, or designated staff, also will read the comments into the record at the meeting, subject to a two-minute time limit per comment.

The Board Chair may reduce the amount of time allotted to read comments at the beginning of each item or public comment period depending on the number of comments and the business of the day. Your patience is appreciated.

A break may be called at the discretion of the Board Chair.

To obtain a copy of a staff report or other written materials related to an open session item on the agenda, please contact Nancy Wein, at the Contra Costa County Public Works Department, by phone at (925) 313-2275, or by email to [Nancy.Wein@pw.cccounty.us](mailto:Nancy.Wein@pw.cccounty.us).

### **Board of Directors:**

Diane Burgis, Contra Costa County – Chair  
Lamar Thorpe, City of Antioch – Vice Chair  
Joel Bryant, City of Brentwood  
Aaron Meadows City of Oakley

### **Authority Staff Office:**

Contra Costa County  
255 Glacier Drive  
Martinez, CA 94553  
(925) 313-2000

**AGENDA  
May 12, 2022**

1. Call to Order
2. Determination
  - A. **Teleconference Meetings: CONSIDER** and **ADOPT Resolution No. 2022/02** to authorize the Board of Directors to conduct teleconference meetings under Government Code section 54953(e), and make related findings set forth in the resolution; **DETERMINE** that the Authority will hold virtual meetings for the next 30 days; and **DIRECT** the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.
3. Public Comment
4. Public Hearing:
  - A. **HEARING** to consider adoption of Resolution of Necessity No. 2022/03 for acquisition by eminent domain of interests in real property required for the State Route 4 Bypass Project – Segment 3, as recommended by the SR4 Bypass Authority's Program Manager, Brentwood area.
5. Consent Items
  - A. **APPROVE** minutes of the January 12, 2022 meeting (February and March meetings cancelled).
6. Boardmember Comments
7. Adjournment

The Authority will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact Staff at least 24 hours before the meeting, at (925) 595-4587. Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the State Route 4 Bypass Authority to a majority of members of the Board of Directors less than 72 hours prior to that meeting are available for public inspection at 255 Glacier Drive, Martinez, CA during normal business hours.

**Board of Directors:**

Diane Burgis, Contra Costa County – Chair  
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**Authority Staff Office:**

Contra Costa County  
255 Glacier Drive  
Martinez, CA 94553  
(925) 313-2000

**STATE ROUTE 4  
BYPASS AUTHORITY**

**DATE:** May 12, 2022

**TO:** Board of Directors

**FROM:** Dale Dennis, Program Manager 

**SUBJECT:** Authorizing Teleconference Meetings (AB 361, Government Code § 54953(e))

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**Recommendation:** Staff recommends the Board take the following actions:

1. **Consider and Adopt Resolution No. 2022/02** to authorize the Board of Directors to conduct teleconference meetings under Government Code section 54953(e), and make related findings set forth in the resolution;
2. **Determine** that the Authority will hold virtual meetings for the next 30 days; and
3. **Direct** the Program Manager and/or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

**Discussion:**

When the COVID-19 pandemic began, Governor Newsom issued an executive order that allowed local agencies to meet remotely without complying with all teleconferencing requirements of the Brown Act. Executive Order N-29-20 suspended certain non-emergency teleconferencing rules, including the requirements that each teleconference location be listed on the agenda and be physically accessible to the public during the meeting and that the public must be given an opportunity to comment at each teleconference location. Since March 2020, the Board of Directors has met virtually, as authorized by Executive Orders N-29-20, N-35-20, N-08-21 and N-15-21. This authority expired September 30, 2021.

New legislation known as Assembly Bill 361, amended the teleconferencing provision of the Brown Act, Government Code section 54953. Effective October 1, 2021, section 54953, subsection (e), authorizes a local agency to use special teleconferencing rules when a legislative body of a local agency holds a meeting during a state of emergency declared by the state and either A) state or local health officials have imposed or recommended measures to promote social distancing, or B) the legislative body is meeting to determine whether, or has determined, by majority vote, that meeting in person would present imminent risks to the health or safety of meeting attendees.

When a legislative body uses the emergency teleconferencing provisions under section 54953(e), the following rules apply:

- The agency must provide notice of the meeting and post an agenda as required by the Brown Act, but the agenda does not need to list each teleconference location or be physically posted at each teleconference location.
- The agenda must state how members of the public can access the meeting and provide public comment.
- The agenda must include an option for all persons to attend via a call-in or internet-based service option.
- The body must conduct the meeting in a manner that protects the constitutional and statutory rights of the public.
- If there is a disruption in the public broadcast of the meeting or of the call-in or internet-based meeting service, the legislative body must stop the meeting and take no further action on agenda items until public access and ability to comment is restored.
- Local agencies may not require public comments to be submitted in advance of the meeting and must allow virtual comments to be submitted in real time.
- The body must allow a reasonable amount of time per agenda item to permit members of the public to comment, including time to register or otherwise be recognized for the purposes of comment.
- If the body provides a timed period for all public comment on an item, it may not close that period before the time has elapsed.
- The body must reconsider the circumstances of the state of emergency and the findings in support of emergency teleconference meetings every 30 days.
- AB 361 sunsets on January 1, 2024.

A Board resolution authorizing teleconferencing under section 54953(e) is attached. It would determine that the State has declared a state of emergency related to COVID-19 and find that social distancing recommendations are in place and that there is an imminent risk of harm to the public, staff, and officials if live meetings are conducted. If adopted, for the next 30 days the resolution would require the Board of Directors to hold teleconference meetings consistent with the above-described rules.

If the Board wishes to continue teleconferencing under section 54953(e), every 30 days after adopting the attached resolution the Board must reconsider the circumstances of the state of emergency and find that one or both of the following circumstances exists: the state declared emergency continues to directly impact the ability of members to safely meet in person, or state or local officials continue to impose or recommend measures to promote social distancing. If the state-declared emergency no longer exists, or if the Board does not make these findings by majority vote, then it will no longer be exempt

from the Brown Act's teleconferencing rules. The attached resolution directs the Program Manager and/or Secretary to return no later than 30 days after the resolution is adopted with an item for the Board to consider whether to continue meeting under the provisions of Government Code section 54953 (e). If the resolution is not adopted, the Board, would not be permitted to conduct teleconference meetings under the provisions of Government Code section 54953(e), added by Assembly Bill 361, and this meeting would need to be adjourned and rescheduled as an in-person meeting.

Attachments:

Resolution No. 2022/02  
Contra Costa Health Services Recommendations for Safely Holding Public Meetings

RESOLUTION NO. 2022/02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE STATE ROUTE 4 BYPASS  
AUTHORITY AUTHORIZING TELECONFERENCE MEETINGS UNDER ASSEMBLY  
BILL 361

Recitals

- A. On March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Gov. Code § 8550 et seq.
- B. On March 10, 2020, the Board of Supervisors found that due to the introduction of COVID-19 in the County, conditions of disaster or extreme peril to the safety of persons and property had arisen, commencing on March 3, 2020. Based on these conditions, pursuant to Government Code section 8630, the Board adopted Resolution No. 2020/92, proclaiming the existence of a local emergency throughout the County.
- C. On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the Brown Act), provided certain requirements were met and followed.
- D. On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which clarified the suspension of the teleconferencing rules set forth in the Brown Act and further provided that those provisions would remain suspended through September 30, 2021.
- E. On September 16, 2021, Governor Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislative body subject to the Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing.
- F. On September 20, 2021, the Contra Costa County Health Officer issued recommendations for safely holding public meetings that include recommended measures to promote social distancing.
- G. Among the Health Officer's recommendations: (1) on-line meetings (teleconferencing meetings) are strongly recommended as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19; (2) if a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended when possible to give those at higher risk of an/or higher concern about COVID-19 an alternative to participating in person; (3) a written safety protocol should be developed and followed,

and it is recommended that the protocol require social distancing – i.e., six feet of separation between attendees – and face masking of all attendees; (4) seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.

- H. The California Department of Public Health (CDPH) and the federal Centers for Disease Control and Prevention (CDC) caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations.
- I. As of April 28, 2022, the CDC-reported seven-day rolling average of new cases in the County was 131.51 cases per day, a case rate that is in the “low” community transmission tier, the least serious of the CDC’s community transmission tiers. However, over the seven days leading up to April 28, 2022, the case rate has increased approximately 51%. Further, according to the Contra Costa County Health Officer, wastewater samples from within the County are showing an increase in COVID-19 test positivity. Finally, according to the Contra Costa County Health Officer, the predominant variant of COVID-19 being identified continues to be the Omicron variant, which has been shown to dramatically increase COVID-19 transmission.
- J. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the State Route 4 Bypass Authority Board of Directors intends to invoke the provisions of Assembly Bill 361 related to teleconferencing.

NOW, THEREFORE, the Board of Directors of the State Route 4 Bypass Authority resolves as follows:

- 1. The Board of Directors finds that the Contra Costa County Health Officer continues to recommend that public meetings be held by teleconferencing as those meetings present the lowest risk of transmission of SARS-CoV-2, the virus that causes COVID-19.
- 2. The Board of Directors finds that meeting in person for meetings of the State Route 4 Bypass Authority Board of Directors would present imminent risks to the health or safety of attendees because, although the County is in the “low” community transmission tier, (a) the COVID-19 case rate has increased by over 51% over the seven days prior to April 28, 2022, (b) wastewater sampling shows an increase in COVID-19 positivity, and (c) the Omicron variant has been shown to dramatically increase COVID-19 transmission.
- 3. As authorized by Assembly Bill 361, the State Route 4 Bypass Authority Board of Directors will use teleconferencing for its meetings in accordance with the provisions of Government Code section 54953(e).
- 4. The Program Manager and/or Secretary is authorized and directed to take all actions

necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act.

5. The Program Manager and/or Secretary is directed to return no later than 30 days after this resolution is adopted with an item for the Board of Directors to consider whether to continue meeting under the provisions of Assembly Bill 361.

PASSED AND ADOPTED on May 12, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced, passed and adopted by the above vote of the State Route 4 Bypass Authority Board of Directors, at a meeting of said Board of Directors on the date indicated above.

Date: \_\_\_\_\_

Brian Balbas, Secretary  
State Route 4 Bypass Authority

By: \_\_\_\_\_





### Recommendations for safely holding public meetings

Each local government agency is authorized to determine whether to hold public meetings in person, on-line (teleconferencing only), or via a combination of methods. The following are recommendations from the Contra Costa County Health Officer to minimize the risk of COVID 19 transmission during a public meeting.

1. Online meetings (i.e. teleconferencing meetings) are encouraged, where practical, as these meetings present the lowest risk of transmission of SARS CoV-2, the virus that causes COVID 19. This is particularly important when community prevalence rates are high. Our current trends as of April 15, 2022 in Covid-19 case rate and Covid-19 hospitalizations have plateaued at this time, but wastewater surveillance data and COVID-19 test positivity has been increasing. In addition to this, the predominant variant of Covid-19 being identified continues to be the Omicron variant, the impact of which on the spread of Covid-19 has shown to dramatically increase COVID-19 transmission.
2. If a local agency determines to hold in-person meetings, offering the public the opportunity to attend via a call-in option or an internet-based service option is recommended, when possible, to give those at higher risk of and/or higher concern about COVID-19 an alternative to participating in person.
3. A written safety protocol should be developed and followed. It is recommended that the protocol require social distancing, where feasible – i.e. six feet of separation between attendees; and consider requiring or strongly encouraging face masking of all attendees and encouraging attendees to be up-to-date on their COVID-19 vaccine.
4. Seating arrangements should allow for staff and members of the public to easily maintain at least six-foot distance from one another at all practicable times.
5. Consider holding public meetings outdoors. Increasing scientific consensus is that outdoor airflow reduces the risk of COVID-19 transmission compared to indoor spaces. Hosting events outdoors also may make it easier to space staff and members of the public at least 6 feet apart.
6. Current evidence is unclear as to the added benefit of temperature checks in addition to symptom checks. We encourage focus on symptom checks as they may screen out individuals with other Covid-19 symptoms besides fever and help reinforce the message to not go out in public if you are not feeling well.
7. Consider a voluntary attendance sheet with names and contact information to assist in contact tracing of any cases linked to a public meeting.

Revised 4-15-2022

*Sefanit Mekuria*

Sefanit Mekuria, MD, MPH  
Deputy Health Officer, Contra Costa County



**STATE ROUTE 4  
BYPASS AUTHORITY**

**DATE:** May 12, 2022

**TO:** Board of Directors

**FROM:** Dale Dennis, Program Manager



**SUBJECT:** State Route 4 Bypass Authority,  
Balfour Road Interchange Project  
Area Brentwood [SCH# 89032824 SCH# 1989032824, Addenda #1-#14, and  
Notice of Exemption].  
Project No.: 4660-6X4414

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**Recommendation:**

- A. **OPEN** the public hearing; **ACCEPT** testimony from the notified property owner as to the four items specified in Section B below; **CLOSE** Public Hearing.
- B. Upon completion and closing of the public hearing, **MAKE** the findings and determinations listed under Section B below, and **ADOPT** the attached Resolution of Necessity (Attachment A - No. 2022/03) to acquire the required property rights by eminent domain. Project No. 4660-6X4414.
- C. **AUTHORIZE** the Program Manager to negotiate and execute a common interest agreement with Contra Costa Water District, subject to approval as to form by the County Counsel, or designee.

**Discussion:**

Reasons for Recommendations and Background:

The action relates to the recommendation of staff to adopt a resolution of necessity to acquire a non-exclusive access easement in Trilogy Vineyards, LLC (Trilogy), property to restore access to Contra Costa Water District's (CCWD) Los Vaqueros Pipeline (LVP). The access easement will substitute for access that State Route 4 Bypass Authority (Bypass Authority) eliminated when it constructed the State Route 4 Bypass.

- A. Project – The State Route 4 Bypass (Project) involved the construction of a 2 to 6-lane, combination freeway/expressway/conventional highway starting east of the Hillcrest Overcrossing on existing SR4 to Vasco Road, including an improved Marsh Creek Road,

ACTION OF BOARD ON \_\_\_\_\_

APPROVED AS RECOMMENDED \_\_\_\_ OTHER \_\_\_\_

VOTE OF DIRECTORS

\_\_\_\_\_ UNANIMOUS (ABSENT \_\_\_\_\_)

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Directors on the date shown.

ATTESTED \_\_\_\_\_

Secretary to the Authority

connecting back to existing SR4 (Byron Highway). The project was constructed in three segments. Segment 3 consisted of constructing approximately four (4) miles of new two-lane expressway between Balfour Road and Vasco Road at Walnut Boulevard, widening 4.5 miles of Marsh Creek Road to meet conventional highway standards, and widening on Byron Highway (existing SR4) north and south of the Byron Highway / Marsh Creek Road intersection.

The Project was the subject of environmental review under the California Environmental Quality Act. On December 13, 1994, this Board approved the proposed Project and adopted the Environmental Impact Report [SCH# 89032824] pertaining to this project. On October 14, 2004, this Board adopted the Supplemental Environmental Impact Report [SCH# 1989032824]. Addendum #1 thru Addendum #14 were completed through September 2018 and a Notice of Exemption was filed on July 23, 2013.

The Project constructed the SR4 Bypass over the CCWD's LVP, which severed CCWD's ability to access the portion of the LVP in Segment 3 of the Project between the SR4 Bypass and Marsh Creek. To complete the Project, the Authority needs to restore the CCWD access to the LVP by acquiring substitute property. It has been determined that the only feasible way to accomplish that is to acquire a non-exclusive access easement for CCWD across the property owned by Trilogy (Trilogy Property) identified as a portion of Assessor Parcel No. 007-720-002. The non-exclusive access easement (Substitute Property) is more particularly described in Appendix "A" to Resolution of Necessity No. 2022/01 attached hereto as Attachment A.

CCWD is a county water district formed and existing under Water Code section 30000, *et seq.*, and possesses the power of eminent domain. (Wat. Code, § 31040.) CCWD's property (Necessary Property) was devoted to accessing the LVP – a public use – before construction of Segment 3 of the Bypass. Construction of the project removed that means of access that CCWD enjoyed. CCWD has agreed to the acquisition of the Substitute Property, which will be used by CCWD to access the LVP – the same public use as the Necessary Property had been devoted to prior to construction of the Project. CCWD has agreed in writing to the acquisition of the Substitute Property in exchange for the Necessary Property. CCWD and the Bypass Authority have agreed that the Bypass Authority will acquire this Substitute Property for the relocation of CCWD's means of access to its LVP – a public use – all pursuant to Code of Civil Procedure sections 1240.320 and 1240.330. Further, after the Substitute Property is acquired, CCWD has agreed to the assignment of the Substitute Property to CCWD for CCWD's continued public use.

The consideration of a resolution of necessity authorizing the condemnation of the Substitute Property is the subject of this action. To complete the Project, the Bypass Authority will need to acquire property interests described in Appendix "A", attached hereto. The property interests are being acquired pursuant to the Eminent Domain Law,

including its provisions regarding the acquisition of substitute property in Code of Civil Procedure sections 1240.320 and 1240.330. Pursuant to Section 1245.235 of the Code of Civil Procedure, before this hearing was opened on May 12, 2022, notice of this hearing was given to Trilogy Vineyards, LLC, c/o Jeff McQueen, 8800 N. Gainey Center Drive, #350 Scottsdale, AZ 85258. (A prior notice was timely given on February 9, 2022, for a hearing on April 14, 2022, but that Board meeting was subsequently cancelled.)

The May 12, 2022 transmittal letter and notice consisted of sending by first-class and certified mail on April 11, 2022, a Notice of Intention, which notified the owners that a hearing is scheduled for May 12, 2022, at 6:30 p.m., at the Tri-Delta Transit Meeting Room, 801 Wilbur Avenue, Antioch, California, and thereafter during its meeting, at which time they may appear to be heard on the matters referred to in the notice. The transmittal letter specified that the meeting would be a teleconference meeting and that the persons receiving the notice would have an opportunity to appear and be heard at the teleconference meeting. The transmittal letter and meeting notice explained how persons wishing to appear and be heard could participate in the meeting. A copy of the transmittal letter and notice was also mailed by first-class and certified mail on April 11, 2022, to Jeff Davies, Project Manager, Trilogy at The Vineyards, 1988 Sacred Mountain Lane Brentwood, Ca. 94513 and Dan O'Brien, Area President, Trilogy, Northern California, Shea Homes, Inc., 1988 Sacred Mountain Lane, Brentwood CA 94513.

**B. Scope of Hearing Per C.C.P. Section 1245.235**

**1. Public Interest and Necessity require the project.**

The Project included the construction of approximately four (4) miles of new two-lane expressway between Balfour Road and Vasco Road at Walnut Boulevard, widening 4.5 miles of Marsh Creek Road to meet conventional highway standards, and widening on Byron Highway (existing SR4) north and south of the Byron Highway / Marsh Creek Road intersection. The existing State Route 4, through the cities of Oakley, Brentwood and Contra Costa County was a substandard urban arterial. It was constrained by alignment and congested because of increasing volumes of local and regional traffic. The SR4 Bypass project has been incorporated in the General Plans of the cities as well as the County, the Authority approved the current project alignment in October 2005.

Because the construction of SR 4 Bypass would eliminate a means of access to CCWD's LVP, the Project included reestablishing that means of access through the acquisition of substitute property for CCWD to use to continue to access its LVP. Without taking this action toward re-establishing said access, CCWD would be left without a reasonable means of accessing the LVP.

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

Through the planning phase of the Project, a number of interchange configurations and highway alignments were studied. The interchange configurations and highway alignment selected achieved the required operational traffic improvements, safe pedestrian crossing, with the least impact to adjacent properties. The interchange configurations and highway alignments that were considered, and the selected configuration and alignment, are more specifically discussed in the Environmental Impact Report [SCH# 89032824], the Supplemental Environmental Impact Report [SCH# 1989032824], Addendum #1 thru Addendum #14, and a Notice of Exemption was filed in July 23, 2013, all pertaining to this Project.

For this portion of the Project, a substitute means of accessing the LVP can be established by acquiring the Substitute Property. The Substitute Property includes an existing access road and extends from the portion of the access road on property owned by Pacific Gas and Electric Company. The Bypass Authority has already acquired a nonexclusive access easement in the portion of the road on PG&E's property. The nonexclusive access easement being acquired through this action is the final segment that CCWD needs to completely restore its access to this segment of the LVP.

Alternatives to the Substitute Property are not compatible with the greatest public good and the least private injury. The existing access road is suitable for CCWD's use. If an access easement is acquired in other property, it would require the Bypass Authority to encumber other property with an access easement and new access road.

3. The property sought to be acquired is necessary for the project.

The Project included the construction of approximately four (4) miles of new two-lane expressway between Balfour Road and Vasco Road at Walnut Boulevard, widening 4.5 miles of Marsh Creek Road to meet conventional highway standards, and widening on Byron Highway (existing SR4) north and south of the Byron Highway / Marsh Creek Road intersection.

The Project constructed the SR4 Bypass over CCWD's LVP, which severed CCWD's access to the portion of the LVP in Segment 3 of the Project between the SR4 Bypass and Marsh Creek. The LVP is a critical water conveyance facility owned and operated by CCWD. CCWD requires access to the LVP for maintenance and operations purposes. Without a means of accessing the LVP at this location, CCWD will be unable to adequately operate and maintain the LVP. This would have a detrimental impact on this critical water conveyance facility.



To complete the Project, the Authority needs to restore the CCWD access to the LVP by acquiring the Substitute Property for CCWD across the property owned by the Trilogy, as substitute access for the Necessary Property, pursuant to Code of Civil Procedure sections 1240.320 and 1240.330. All efforts have been made to reduce physical and operational impacts to the Trilogy Property, but the Project cannot be completed as planned without the acquisition of the property rights described in Appendix “A”.

4. The offer of compensation required by Section 7267.2 of the Government Code has been made to the owner or owners of record.

On November 22, 2021, Authority staff made an offer of just compensation to the owners for the rights required for the project. The offer was based on an appraisal of the fair market value of the property rights being acquired. In this case, over the last 6 months, efforts were made to acquire the Substitute Property through negotiated purchase and sale instead of condemnation. Attempts to negotiate a settlement involved discussions with the owners of the property rights. However, the negotiations were not successful, requiring the Authority to proceed with the adoption of the Resolution of Necessity. If the Resolution of Necessity is adopted, a condemnation action can be filed, but staff will continue to attempt to negotiate a mutually acceptable resolution.

#### Consequences of Negative Action:

The Authority will be unable to acquire the property rights necessary for the Project. This will leave CCWD without a means of access to replace access that the Authority eliminated as part of the Project.

#### Attachments:

Attachment A - Resolution No. 2022/03  
Appendix “A” - legal description

**THE BOARD OF DIRECTORS  
STATE ROUTE 4 BYPASS AUTHORITY,  
A JOINT EXERCISE OF POWER AGENCY**

Re:	Condemnation of Property	)	<b>RESOLUTION OF NECESSITY</b>
	for Public Road Purposes,	)	<b><u>NO.2022 /03</u></b>
	State Route 4 Bypass	)	(C.C.P. Sec. 1245.230)
	Brentwood Area	)	

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The Board of Directors, as the governing body of the State Route 4 Bypass Authority, a joint exercise of powers agency (the “Authority”), by a vote of four-fifths or more of its members, **RESOLVES** that:

The Authority has constructed Segment 3 of the SR4 Bypass, which consisted of constructing approximately four (4) miles of new two-lane expressway between Balfour Road and Vasco Road at Walnut Boulevard, widening 4.5 miles of Marsh Creek Road to meet conventional highway standards, and widening on Byron Highway (existing SR4) north and south of the Byron Highway / Marsh Creek Road intersection, a public improvement, in the Brentwood area, and, in connection therewith, needs to acquire interests in certain real property by eminent domain. The Project includes restoring access to Contra Costa Water District’s Los Vaqueros Pipeline by acquiring certain property rights for access (substitute property) in exchange access rights that were lost (necessary property) when Segment 3 of the SR4 Bypass was constructed. The Authority is authorized to acquire the necessary property for the Project pursuant to Government Code Section 25350.5 and Streets & Highways Code Section 760, and other applicable law.

The property interests to be acquired consist of one (1) non-exclusive access easement in real property generally located in the Brentwood area. The non-exclusive access easement is more particularly described in Appendix “A”, attached hereto and incorporated herein by this reference.

On April 11, 2022, notices of the Authority’s intention to adopt a resolution of necessity for acquisition by eminent domain of the real property described in Appendix "A" was sent Trilogy Vineyards, LLC, whose name appears on the last equalized County Assessment Roll as owner of said property and to the parties shown on the attached Exhibit “A”. The notice specified, May 12, 2022, at 6:30 p.m., at the Tri-Delta Transit Meeting Room, 801 Wilbur Avenue in the City of Antioch California, 94509, as the date, time, and place for the hearing thereon. The transmittal letter specified that, in lieu of an in-person meeting, the Authority Board would hold a teleconference meeting, and the transmittal letter included information for how the parties shown on the attached Exhibit “A” could appear and be heard.

The hearing was held on that date, and at that time and place, and all interested parties were given an opportunity to be heard. Based upon the evidence presented to it, including but not limited to the information in the staff report presented with this resolution, this Board finds, determines, and hereby declares the following:

**RESOLUTION NO. 2022/03**

1. The public interest and necessity require the proposed project; and
2. The proposed project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury; and
3. The property described herein is necessary for the proposed Project; and
4. The offer required by Section 7267.2 of the Government Code was made to the owner or owners of record.
5. The property interests described in Appendix "A" are necessary for the purposes described in Code of Civil Procedure sections 1240.320 and 1240.330. This resolution is adopted pursuant to Code of Civil Procedure sections 1240.320 and 1240.330.
6. On December 13, 1994, this Board APPROVED the proposed Project and ADOPTED the California Environmental Quality Act (CEQA) Environmental Impact Report [SCH# 89032824] pertaining to this Project. On October 14, 2004, this Board adopted the CEQA Supplemental Environmental Impact Report [SCH# 1989032824] and on July 23, 2013, a Notice of Exemption was filed.

**NOW, THEREFORE, BE IT RESOLVED:**

The County Counsel of Contra Costa County, as Counsel for the Authority, or her designee, is hereby **AUTHORIZED** and **EMPOWERED**:

To acquire in the Authority's name, by condemnation, the titles, easements and rights of way hereinafter described in and to said real property or interests therein, in accordance with the provisions for eminent domain in the Code of Civil Procedure and the Constitution of California:

A non-exclusive access easement upon, over, and across a portion of that real property commonly identified as Assessor's Parcel Number 007-720-002, as more particularly described in Appendix "A," attached hereto and incorporated herein by reference.

To prepare and prosecute in the Authority's name such proceedings in the proper court as are necessary for such acquisition; and

To deposit the probable amount of compensation based on an appraisal, and to apply to said court for an order permitting the Authority to take immediate possession and use said real property for said public uses and purposes.



PASSED and ADOPTED on May 12, 2022, by the following vote:

AYES:

NOES:

ABSENT:

I HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced, passed and adopted by unanimous vote of the State Route 4 Bypass Authority, at a meeting of said Board of Directors on the date indicated above.

Date: \_\_\_\_\_

Brian Balbas, Secretary  
State Route 4 Bypass Authority

By: \_\_\_\_\_

LLO:

cc: L. Owens, Real Property  
County Counsel (Certified Copy)

**RESOLUTION NO. 2022/03**



State Route 4 Bypass Authority  
Access Easement across  
Trilogy Vineyards LLC property  
Portion of APN 007-720-002

## **Appendix "A"**

Real property in the City of Brentwood, County of Contra Costa, State of California, being a portion of the Rancho Los Meganos also being a portion of Parcel One of the Trilogy Vineyards LLC property described in the deed recorded May 3, 2005 in series number 05-156242, Contra Costa County records, and being a portion of Parcel "E4" of Subdivision 8908 filed December 30, 2013 in Book 519 of Maps at page 8, described as follows:

### **Access Easement**

Commencing at the northeast corner of the parcel of land granted to Pacific Gas and Electric Company in the deed recorded September 19, 1974 in Book 7326 of Official Records at page 647, also being the northeast corner as shown on the Record of Survey, filed December 3, 1976 in Book 61 of Licensed Surveyors' Maps at page 34; thence southerly along the easterly line of said parcel south 2°50'00" west, 145.971 meters (the bearing of south 2°50'00" west being taken for the purpose of this description); thence continuing along said easterly line south 42°18'30" east, 32.919 meters to the Point of Beginning; thence from said Point of Beginning, leaving said easterly line south 73°24'08" east, 24.225 meters to a point on the westerly line of the 85.00 foot wide Right of Way described in Exhibit "A" of the Final Order of Condemnation to Contra Costa Water District, recorded September 10, 1998 at series number 98-218936; thence southerly along said line south 20°03'20" east, 6.806 meters; thence leaving said westerly line north 83°20'35" west, 26.235 meters to a point on the easterly line of said Pacific Gas and Electric Company parcel (7326 OR 647); thence northerly along said easterly line, north 2°50'00" east, 10.285 meters to the Point of Beginning.

Containing an area of 201 square meters of land, more or less.

Bearings are based on the California Coordinate System Zone III (CCS83). Distances given are grid distances. To obtain ground distance, multiply distance given by 1.0000676.

Distances shown are in meters. Multiply distances shown by 3.28083333 to convert to U.S. survey foot. Areas shown are in square meters, multiply areas by 10.764 to convert to square feet.

This real property description has been prepared by me or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: James A. Stein

Licensed Land Surveyor  
Contra Costa County Public Works

Date: 3/11/2022



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

**JOINT EXERCISE OF POWERS AGENCY**

January 13, 2022

The Regular Meeting of the STATE ROUTE 4 BYPASS AUTHORITY (SR4BA) was convened via a web-based platform in locations not open to the public to provide the safest environment for staff and the public as permitted by Government Code Section 54953(e). Members of the public were allowed to participate in the meeting online, or by telephone.

Chair Aaron Meadows called the meeting to order at 6:44 P.M.

**ROLL CALL**

PRESENT: Joel Bryant (Brentwood), Lamar Thorpe (Antioch), and Chair Aaron Meadows (Oakley)

ABSENT: Diane Burgis (Contra Costa County)

STAFF: Dale Dennis, Program Manager  
Stephen Siptroth, Deputy County Counsel

**PUBLIC COMMENT**

No written comments were submitted, or oral comments made, by any member of the public.

**DETERMINATION**

Teleconference Meetings: CONSIDER adopting SR4BA Resolution No. 2022/01 to authorize the Board of Directors to conduct teleconference meetings under Government Code Section 54953(e) and make related findings; DETERMINE that the Authority will hold virtual meetings for the next 30 days; and DIRECT the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

No written comments were submitted, or oral comments made, by any member of the public.

On motion by Director Thorpe, seconded by Director Bryant, the Authority APPROVED Resolution No. 2022/01 authorizing the Board of Directors to conduct teleconference meetings under Government Code Section 54953(e) and make related findings; DETERMINED that the Authority will hold virtual meetings for the next 30 days; and DIRECTED the Program Manager or Secretary of the Board to return this matter to the Board within 30 days for reconsideration.

The motion carried by the following Roll Call vote:

AYES: Bryant, Thorpe, Meadows  
NOES: None  
ABSTAIN: None  
ABSENT: Burgis

### **ELECTION OF OFFICERS**

Program Manager Dale Dennis described the historical process related to the election of officers on a rotational basis, and noted that the representative from Contra Costa County would be in line for the Chair position while the representative from the City of Antioch would be in line for the Vice Chair position.

#### **Chair and Vice Chair**

On motion by Director Bryant, seconded by Director Thorpe, ***Diane Burgis*** was elected as Chair and ***Lamar Thorpe*** as Vice Chair of the State Route 4 Bypass Authority for 2022, by the following Roll Call vote:

AYES: Bryant, Thorpe, Meadows  
NOES: None  
ABSTAIN: None  
ABSENT: Burgis

### **CONSENT ITEMS**

On motion by Director Thorpe, seconded by Director Bryant, the Authority APPROVED the Consent Items, as follows, which carried by the following Roll Call vote:

- A. APPROVED minutes of the October 14, 2021 meeting (*November and December 2021 meetings cancelled*).
- B. ACCEPTED Audit Report prepared by Cropper Rowe, LLP, Certified Public Accountants, for the Fiscal Year ending 2021.

AYES: Bryant, Thorpe, Meadows  
NOES: None  
ABSTAIN: None  
ABSENT: Burgis

### **BOARDMEMBER COMMENTS**

There were no comments from the Board.

**ADJOURNMENT**

Chair Meadows adjourned the meeting of the State Route 4 Bypass Authority at 6:47 P.M. to Thursday, February 10, 2022 at 6:30 P.M. or other day/time deemed appropriate.

Respectfully submitted,

Anita L. Tucci-Smith  
Minutes Clerk