



Legislation Details (With Text)

File #: ID 20-00466 **Version:** 1 **Name:**
Type: Action Item **Status:** Agenda Ready
File created: 4/5/2020 **In control:** City Council
On agenda: 4/23/2020 **Final action:** 4/23/2020

Title: Actions pertaining to the acquisition and removal of Billboard 68080 on a City-owned parcel, located on the east side of State Route 99, approximately one mile north of West Shaw Avenue, Assessor’s Parcel Number 505-080-36ST, to construct a public street for the Veterans Boulevard Project (Council District 2)

1. HEARING to consider a resolution of public use and necessity for acquisition and removal of Outfront Media, LLC.’s Billboard 68080, Panel numbers “A” and “O,” located on City-owned real property and right of way, APN 505-080-36ST, on the east side of State Route 99, approximately one mile north of Shaw Avenue, for the purpose of constructing a public street for the Veteran’s Boulevard Project
2. ***RESOLUTION - Determining that public interest and necessity requires acquisition of a leasehold interest, tenant improvements pertaining to the real property, and all other interests related to Billboard Number 68080, Panels A and O, located on City-owned real property and right of way (APN 505-080-36ST) on the east side of State Route 99, approximately one mile north of West Shaw Avenue, owned and operated by Outfront Media, LLC, for the purpose of constructing the Veterans Boulevard Project, and authorizing eminent domain proceedings for public use and purpose (Requires 5 Affirmative Votes) (Subject to Mayor’s Veto)

Sponsors: Public Works Department

Indexes:

Code sections:

Attachments: 1. 20-00466 Resolution of Necessity, 2. 20-00466 Vicinity Map, 3. 20-00466 Location Map, 4. 20-00466 Billboard Location Display

Date	Ver.	Action By	Action	Result
4/23/2020	1	City Council	adopted	Pass

REPORT TO THE CITY COUNCIL

April 23, 2020

FROM: SCOTT L. MOZIER, PE, Director
Public Works Department

THROUGH: RANDALL W. MORRISON, PE, Assistant Director
Public Works Department, Engineering Division

BY: R. SCOTT BEYELIA, Supervising Real Estate Agent
Public Works Department, Real Estate and Lease Services

SUBJECT

Actions pertaining to the acquisition and removal of Billboard 68080 on a City-owned parcel, located

on the east side of State Route 99, approximately one mile north of West Shaw Avenue, Assessor's Parcel Number 505-080-36ST, to construct a public street for the Veterans Boulevard Project (Council District 2)

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RECOMMENDATION

Staff recommends the City Council conduct the required public hearing and at the close of the hearing, adopt the attached Resolution of Necessity (RON) determining that public interest and necessity require acquisition and removal of Billboard 68080 (Billboard), located on City-owned real property and right of way, APN 505-080-36ST, on the east side of State Route 99, approximately one mile north of West Shaw Avenue, owned and operated by Outfront Media, LLC (Outfront), for the purpose of constructing a public street for the Veterans Boulevard Project (Project).

EXECUTIVE SUMMARY

Council approved the acquisition of a 37,270 square foot portion of APN 505-080-22S in fee simple right-of-way. The acquired 37,270 square foot portion included the existing Billboard, legally installed under a lease agreement with the former owner of the parcel. Outfront has not accepted Staff's final offer for loss of business goodwill and reimbursement for the removal of the Billboard. There is insufficient time to locate an alternative site and negotiate a Billboard relocation agreement due to the construction schedule being a condition of the Project funding.

Adoption of the RON for public use will authorize and direct the City Attorney to institute and conclude eminent domain proceedings; authorize and direct the City Controller to disburse \$344,000 for deposit into the State of California Treasurer's Office - Condemnation Fund, as approved by the City Attorney, and such amounts for litigation costs as may be required to acquire the Billboard located on City-owned real property and right of way.

The appraised value for loss of business goodwill, including the removal cost of the Billboard is \$344,000. The acquisition and removal of the Billboard is necessary to begin construction of the Project. If the RON is not adopted, and possession and removal of the Billboard is not executed, the City will not be able to clear the property for construction and the entire Project will be in jeopardy.

BACKGROUND

Pursuant to the California Code of Civil Procedure Section 1245.230, the RON shall contain all of the

following: (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; (b) a description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification; (c) a declaration that the Council has found and determined each of the following:

- (1) The public interest and necessity require the proposed use.
- (2) The proposed use is planned and located in the manner that will be most compatible with the greatest public good and least private injury.
- (3) The property described in the resolution is necessary for the proposed use.
- (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.

All of the street easements and right of way necessary for the Project have been acquired through mutually agreed upon purchase and sale agreements, or stipulation and right of entry for construction. Staff has been unsuccessful, after diligent attempts, to relocate or acquire the Billboard.

On July 28, 2016, Council approved the acquisition of a 37,270 square foot portion of APN 505-080-22S in fee simple right-of-way, located on the east side of State Route 99, approximately one mile north of West Shaw Avenue, to facilitate the Project. After deed recordation, the County Assessor assigned the 37,270 square foot acquired portion of APN 505-080-36S, a new and separate APN 505-080-36ST (Parcel).

After acquisition of the Parcel in fee ownership for right of way, staff notified Outfront the Billboard would have to be removed to facilitate the Project. On April 18, 2017, Outfront proposed a settlement offer of \$516,600, based on an internal valuation. City staff had an appraisal prepared by Dave Girbovan, ASA, with Girbovan, Inc., located at 2324 Eagle Creek Lane, Oxnard, California. Dave Girbovan, ASA, is an independent appraiser who specializes in the appraisal of loss of business goodwill. Mr. Girbovan conducted the appraisal of the lost business goodwill, based upon the same five years of revenue provided by Outfront with their internal valuation of \$516,600, and concluded the value, including removal cost, at \$344,000.

In an effort to reach a mutually satisfactory resolution, Council approved and authorized a Relocation Agreement with Outfront on June 21, 2017. The Relocation Agreement included compensation of \$150,000; an amount negotiated partially based on the aforementioned appraisal by Mr. Gibovan, since the relocated site would be a one-sided panel billboard, as opposed to the former two-sided panel billboard. The Relocation Agreement was contingent upon removal or trimming of trees located adjacent to the relocation site, with Outfront being responsible for obtaining any required authorizations to trim or remove the trees from the owners of the properties at the proposed relocation site.

Outfront was unsuccessful in obtaining authorization from the adjacent property owners to remove or trim the trees. After nearly two years, staff terminated the Relocation Agreement on May 21, 2019, and offered Outfront the full appraised amount of \$344,000. Outfront inquired about another relocation agreement but staff informed Outfront that the Project construction schedule was not conducive to another attempt at a relocation agreement due to the uncertain nature of such an agreement. As of the writing of this Council Staff Report, Outfront has not accepted the \$344,000

offer made by staff on May 21, 2019.

Construction of the Project necessitates the acquisition and removal of the Billboard. The Billboard is located within the planned and designed Veteran's Boulevard State Route 99 Interchange which necessitate its removal to construct the interchange, as shown in the attached Vicinity Map, Location Map, and Billboard Location Display Map.

Pursuant to the California Code of Civil Procedure, notice was sent to the property owner, with an invitation to appear at the hearing, and a request to notify staff within 15 days if the owner intends to appear.

It is recommended the Council adopt the resolution with consideration of the following findings:

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

Acquisition and removal of the Billboard is necessary to construct Veteran's Boulevard, Phase III. The Billboard is located within the planned and designed Veteran's Boulevard State Route 99 Interchange which necessitates its removal.

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

The Project as planned will improve traffic flow through the area and alleviate traffic congestion on neighboring streets.

3. The property is necessary for the proposed project.

It is necessary to acquire and remove the Billboard in order to clear the land for the construction of the Project. Acquisitions have also been made from all of the surrounding property owners to accommodate the Project. The Billboard must be removed from the path of the new roadway.

4. An offer to purchase the required real property has been made pursuant to Section 7267.2 of the Government Code.

A written offer of the appraised fair market value has been delivered to the owners of the billboard pursuant to the requirements of the California Government Code.

The City Attorney has reviewed and approved the RON as to form.

ENVIRONMENTAL FINDINGS

Staff has performed a preliminary environmental assessment of this Project as it pertains to the relocation of Billboard 68080 and has determined that it falls within the Class 1 Categorical Exemptions as set forth in CEQA Guidelines Section 15301(c) which exempts the repair, maintenance or minor alteration of existing structures or facilities. Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

LOCAL PREFERENCE

Local preference is not applicable because the hearing to adopt a RON for public use does not include a bid or award.

FISCAL IMPACT

The Project is located in Council District 2. There will be no impact to the General Fund. The Project is to be funded through California High Speed Rail Authority, various types of Measure "C" funding, Regional Transportation Mitigation Impact Fees (RTMF), State Transportation Improvement Program (STIP) funds and City of Fresno Development Impact Fees. All funding necessary for this acquisition is included in the currently adopted City budget.

Attachments:

Resolution of Necessity

Vicinity Map

Location Map

Billboard Location Display Map