Town of Frederick
Town Board

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Amy Schiers, Trustee
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Rafer Burnham, Trustee
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IM 2010- 012

2012-2017 Transportation Improvement Program Project Submission and ROW Acquisition

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Agenda Date: Town Board Meeting - September 14, 2010

Attachments: n/a

Issue/Request:

DRCOG has opened the call for Projects for funding through the FY 2012-2017 Transportation Improvement Program (TIP). Staff is proposing to submit a bike/ped expansion project along Bella Rossa/WCR20. Installation of the bike/ped trail will require the acquisition of additional ROW. Per the adopted TIP Policy, ROW acquisition must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

Submitted by: Richard Nickson
Storm Water Engineer

Approved for Presentation:
Town Administrator

AV Use Anticipated Projector _____ Laptop _____

Certification of Board Review: _____ _____
Town Clerk Date

Detail of Issue/Request:

The project being considered for submission to the 2012-2017 TIP Program will complete Bike/Ped access from the existing underpass at I-25 to Colorado Blvd/WCR13. The bike/ped path will be accommodated in its ultimate location by adding storm drainage and paved shoulders along the entire length of the south side of Bella Rossa Parkway /WCR 20 from the I-25 underpass to the existing trail

connection at Moore Farms. This will require the acquisition of ROW in four (4) areas. Two of the property owners in this area have been recently contacted and expressed a willingness to sell the ROW to the Town for a fair market value. The other property owners have not been contacted at this time. Federally funded projects that are a part of the TIP program must follow the Uniform Act for ROW acquisition. This process requires all property owners be compensated at fair market value as established during the process. The Town will make every effort to reach a mutually agreeable price for the ROW. However, if the property owners do not agree to sell the ROW at the established fair market value the Town must be willing to condemn the ROW. If condemnation does not occur all project funding will be lost and all costs incurred to that point will be the responsibility of the Town.

Legal/Political Considerations:

Under the Uniform Act, the Town must determine the just compensation amount it offers a property owner in a two-step process: an appraiser researches the real estate market and presents an appraisal of fair market value. A review appraiser evaluates that appraisal and recommends an amount for the Town to approve as an estimate of just compensation. For uncomplicated, low value acquisitions as maybe the case with the subject ROW acquisitions, a town may determine an appraisal is not required and prepare a waiver valuation that will be the basis upon which a town will approve the offer of just compensation by resolution. The possibility of an administrative settlement should be explored if the just compensation offer is not accepted by the property owner in reference to 49 CFR §24.102(i) of the Uniform Act. Local officials may approve the use of an administrative settlement if it is reasonable, prudent and in the public interest. A town may also use other alternative dispute resolution options, such as mediation or arbitration. If all efforts to negotiate/settle fail then the laws of the jurisdiction set forth the legal steps it must take when it wishes to purchase property that an owner does not want to sell, i.e. condemnation. Notice of such intent cannot be exclusively by public hearing under the Uniform Act, and may require individual mailings to property owners.

Alternatives/Options:

If the Town is not willing to potentially condemn the required ROW then TIP funding is not an option.

Financial Considerations:

A preliminary cost estimate will be prepared and reviewed with the Board prior to the October 6th submittal to DRCOG. The Town would be responsible for a 20% match for this funding.

Staff Recommendation:

Staff recommends that if TIP funding is requested that Town be willing to pursue condemnation if a fair market value can't be agreed upon with the property owners.