

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

July 23, 2024

**FROM**

**NOEL CASTILLO, Director, Department of Public Works – Transportation**

**SUBJECT**

Ratification of Agreement with Southern California Edison for the Extension of Electrical Lines for the Cactus Avenue and Easton Street Project in the Rialto Area

**RECOMMENDATION(S)**

Ratify the electronic approval and submission of a **Contract No. 24-685** with Southern California Edison, which includes non-standard terms, in an amount not to exceed \$4,537.26, a discounted amount, for the extension of electrical distribution lines for the Cactus Avenue and Easton Street Project, in the Rialto area, effective as of the date executed by Southern California Edison until terminated pursuant to the terms of the agreement.

(Presenter: Noel Castillo, Director, 387-7906)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Ensure Development of a Well-Planned, Balanced, and Sustainable County.**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Cactus Avenue and Easton Street Project in the Rialto area (Project) will be funded with City of Rialto (City) funds and Senate Bill 1 Road Maintenance and Rehabilitation Account (RMRA) funds. Sufficient appropriation and revenue are included in the Department of Public Works (Department) 2024-25 Road Operations budget (66500002000 17H15228) and will be included in future recommended budgets as necessary.

**BACKGROUND INFORMATION**

The Department has determined the need for traffic signals at Cactus Avenue and Easton Street in the Rialto area because of volume justification and safety concerns. The Department has requested Southern California Edison (SCE) to install an electrical distribution line extension to energize the traffic signals. SCE created a standard Agreement for extensions of electrical distribution lines, which is on file with the Public Utilities Commission. SCE requires this Agreement and its appendices to be executed by the County under SCE's Rule 15.

This item will ratify the electronic approval and submission of the Agreement, which delineates each party's responsibilities in relation to the extension of electrical distribution lines and includes terms that differ from the standard County contract and omits certain County standard language. The non-standard and missing terms include the following:

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1. The Agreement requires the County to indemnify SCE at the County's own cost to defend, indemnify, and hold harmless SCE, its officers, agents, employees, assigns, and successors in interest from and against any and all liability, damages, losses, claims, demands, actions, causes of action, costs including attorney's fees and expenses, or any of them, resulting from the death or injury to any person or damages to any property caused by Applicant (the County) or its contractor and employees, officers or agents of either Applicant (the County) or its contractor, or any of them, and arising out of the performance or nonperformance of their obligations under the Agreement.
  - The County standard contract does not include any indemnification or defense by the County of other parties to the contract.
  - Potential Impact: By agreeing to indemnify SCE, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against SCE without such limitations and the County would be responsible to defend and reimburse SCE for costs, expenses, and damages, which could exceed the total Agreement amount.
2. The Agreement does not require SCE to meet the County insurance standards.
  - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
  - Potential Impact: The Agreement does not include County standard insurance requirements. This means that the County has no assurance that SCE will be financially responsible for claims that may arise from the work performed pursuant to the Agreement which could result in expenses to the County that exceed the total Agreement amount.
3. The term of the Agreement is ongoing.
  - County Policy 11-04 does not permit indefinite terms or automatically renewing contracts unless approved by the Board of Supervisors (Board).
  - Potential Impact: There is no end term to the contract. Instead, the Agreement becomes effective upon execution by SCE and remains in effect, stipulating that that if SCE ceases to be the sole provider of electrical services for the Project at any time during the term, the Agreement may be terminated. Thus, the County may be bound to the terms and conditions of the Agreement for an ongoing and unspecified period unless material breach of the Agreement by SCE.
4. The Agreement does not include the County's ability to terminate the Agreement for convenience.
  - The County standard contract gives the County the right to terminate the contract, for any reason, with a 30-day written notice of termination without any obligation other than to pay amounts for services rendered and expenses reasonably incurred prior to the effective date of termination.

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- Potential Impact: There is no termination for convenience provision. Upon any termination by either party regardless of cause, the County may be required to pay for the work under the Agreement, which could result in payment liability where no funds are available due to lack of allocation or loss of funding.

The Department recommends approval of the Agreement, including non-standard terms, as the Project is currently under construction. The prompt approval of the Agreement is essential for SCE to energize the traffic signals and prevent delays in the Project construction schedule.

In addition, the agreement grants SCE the rights-of-way and easements for the extension of electrical distribution lines for the purpose of making delivery of electrical service to the traffic signals. The appendices to the contract provide the County with a refundable option of \$5,339.83 or a discount option of \$4,537.26 for construction of the line extension. The refundable option is recommended when it is anticipated that other SCE customers will tie into the line extension, thereby generating a refund to the County. However, since the area anticipates limited development and a connection to this line extension is unlikely in the foreseeable future, the Department recommends the discount option at a cost of \$4,537.26 for Board approval.

As this project is primarily in the County unincorporated area and partially within the incorporated area of the City, on August 22, 2023 (Item No. 60), the Board approved a cooperative agreement between the County and the City. The County serves as the lead agency, and the City will pay its share of the cost for the Project.

Due to administrative error in processing, the Agreement was electronically signed and submitted to SCE on July 8, 2024. Therefore, approval of this item will ratify the acceptance and execution of the Agreement by the County. This item is being presented for Board approval at the next available date following operational, fiscal, and legal reviews.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Aaron Gest, Deputy County Counsel, 387-5455) on July 17, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst II, 386-9008) on July 10, 2024; Finance (Jessica Trillo, Administrative Analyst, 387-4222) on June 14, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on June 24, 2024.

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Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Curt Hagman   Seconded: Joe Baca, Jr.  
Ayes: Col. Paul Cook (Ret.), Dawn Rowe, Curt Hagman, Joe Baca, Jr.  
Absent: Jesse Armendarez

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: July 23, 2024



cc:     PW - Nguyen w/ agree  
         Contractor c/o PW w/ agree  
         File w/ agree  
JLL     07/31/2024