

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

June 28, 2022

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

BRENDON BIGGS, Director, Department of Public Works – Transportation

SUBJECT

Waiver Valuations and Acquisition of Temporary Construction Easements for the Phelan Road Intersection Improvement Project in the Phelan Area

RECOMMENDATION(S)

1. Approve Waiver Valuations Numbers 21-18, 21-19, and 21-20, dated July 27, 2021, copies of which are on file with the Real Estate Services Department.
2. Authorize the acquisition of three temporary construction easements over portions of three parcels described in Recommendation No. 3 from three property ownerships in the Phelan Area of unincorporated San Bernardino County, for the Phelan Road Intersection Improvement Project.
3. Approve the following acquisition agreements for the temporary construction easements with three property ownerships for a total just compensation of \$3,000, with the term of the temporary construction easements commencing retroactively to September 17, 2021 through September 17, 2022:
 - a. Acquisition **Agreement No. 22-567** with the owner of Assessor Parcel Number 3065-171-31 for a temporary construction easement totaling 2,789 square feet in the amount of \$500, and one two-month option to extend the term of the temporary construction easement in the amount of \$500, for total just compensation of \$1,000.
 - b. Acquisition **Agreement No. 22-568** with the owners of Assessor Parcel Number 3065-431-13 for a temporary construction easement totaling 138 square feet in the amount of \$500, and one two-month option to extend the term of the temporary construction easement in the amount of \$500, for total just compensation of \$1,000.
 - c. Acquisition **Agreement No. 22-569** with the owner of Assessor Parcel Number 3065-611-05 for a temporary construction easement totaling 138 square feet in the amount of \$500, and one two-month option to extend the term of the temporary construction easement in the amount of \$500, for total just compensation of \$1,000.
4. Authorize the Director of the Real Estate Services Department to exercise the one two-month option to extend the term of the temporary construction easements described in Recommendation No. 3.
5. Authorize the Director of the Real Estate Services Department to execute any other documents necessary to complete these transactions, subject to County Counsel review.

(Presenter: Terry W. Thompson, Director, 387-5000)

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COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

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 additional Discretionary General Funding (Net County Cost). The total cost for San Bernardino County (County) to acquire the three temporary construction easements (TCEs) is \$3,000. The Phelan Road Intersection Improvement Project (Project) is funded with Federal Highway Safety Improvement Program (HSIP) funds and a local match with Senate Bill (SB) 1 Road Maintenance Rehabilitation Account (RMRA) funds. Sufficient appropriation and revenue are included in the Department of Public Works (DPW) 2022-23 Road Operations budget (6650002000 13H14995).

BACKGROUND INFORMATION

This item will approve waiver valuations and authorize acquisition of three TCEs over portions of three parcels, Assessor Parcel Numbers (APN's) 3065-171-31, 3065-431-13, and 3065-611-05, located in the Phelan Area of the unincorporated County, for construction of the Project. The TCEs shall take effect upon acceptance and will expire on September 17, 2022.

The Project consists of widening four intersections on Phelan Road to accommodate left-turn and right-turn lanes to the intersecting streets at Sonora Road, Tumbleweed Road, Sunny Vista Road, and Arrowhead Road. The Project includes mill and overlay of existing pavement, widening with new pavement to accommodate pavement transitions, minor grading on shoulders, construction of approach aprons, new pavement returns at intersecting streets and traffic striping. Most work for the Project will be done within the existing right of way. TCEs are needed for access over private property to match the driveway grade and to reconstruct miscellaneous improvements.

DPW sought Federal grant funding for the acquisitions and was on a compressed timeline that required right-of-way certification by December 31, 2021. Due to time constraints, an Agreement for Immediate Possession and Use (PUAs), a type of license agreement, was obtained from the property owners in advance of the TCEs, and the Right of Way Certification package was submitted timely to the California Department of Transportation (Caltrans) to prevent a loss of funding. The PUAs were signed by the property owners and then executed by the Chief Executive Officer (CEO) on December 22, 2021, pursuant to authority delegated by the Board of Supervisors (Board) on November 7, 2000 (Item No. 54), for the CEO to execute short term leases. The PUAs commenced on September 29, 2021, and terminate on September 17, 2022, or the day before the commencement date set forth in the TCEs. Under the terms of the PUAs, the property owners were also each compensated \$500, which would be credited against the future purchases of the TCEs. The certification package was approved by Caltrans on December 29, 2021. The TCEs commence retroactively to September 17, 2021, will replace the PUAs, and will remain in effect through September 17, 2022. The Acquisition Agreements include one two-month option to extend the term of the TCEs, each in the amount of \$500, for total just compensation of \$1,000 each.

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The Project requires three TCEs totaling 3,065 square feet across three properties for the Project. DPW requested the Real Estate Services Department (RES D) to assist with the valuations and acquisitions of the needed property rights.

The portions of land to be acquired from the three property owners are described as follows:

Property Ownerships	Easement	APN	Total Area to be Acquired (sq. ft.)
Jose F. Tapia	TCE-1	3065-171-31	2,789
Francisco Godinez Flores and Kristopher P. Flores	TCE-2	3065-431-13	138
Cindea Lindley	TCE-3	3065-611-05	138

Waiver Valuations (No's 21-18, 21-19, and 21-20) were completed by and are maintained on file with RES D. The valuations establish the amount of just compensation to be paid to the three property owners for the TCE interests necessary to construct the Project.

Approval of this item will authorize the offers of just compensation to, and acceptance by, the property owners and acquisition of the necessary TCEs from the property owners in conformance with all applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Government Code section 7260 et seq., corresponding regulations, and County Policy No. 12-20.

If this item is approved, the Director of the Real Estate Services Department will accept the easements described in Recommendation No. 3 pursuant to the resolution adopted by the Board on March 27, 2012 (Item No. 75).

The Project was reviewed pursuant to the California Environmental Quality Act (CEQA) and was determined to be exempt from further review under Class 1, Section 15301(c) (existing facilities) and Class 2, Section 15302 (replacement or reconstruction), of the CEQA Guidelines. The Board approved the Project as defined in the Notice of Exemption (NOE) on November 17, 2020 (Item No. 65) and directed the Clerk of the Board of Supervisors to post the NOE. As the Project receives federal funding, Caltrans reviewed it under the National Environmental Policy Act (NEPA) and adopted and issued a Categorical Exclusion for the Project on July 3, 2020. The County has fulfilled its CEQA obligations, and no further action is needed.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Scott Runyan, Principal Assistant County Counsel, and Aaron Gest, Deputy County Counsel, 387-5455) on June 6, 2022; Department of Public Works (Mervat Mikhail, Interim Deputy Director, 387-7916) on June 6, 2022; Finance (Carl Lofton, Administrative Analyst, 387-5404) on June 10, 2022; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-4376) on June 10, 2022.

(MR: 454-8407)

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: June 28, 2022



cc: RESD- Thompson w/agree
Contractor- C/O RESD w/agree
File- w/agree w/attach
LA 07/15/2022