

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

November 19, 2024

FROM

NOEL CASTILLO, Director, Department of Public Works – Transportation

SUBJECT

Agreement with Southern California Edison for the Extension of Electrical Lines for the Agua Mansa Road and El Rivino Road Project in the Bloomington Area

RECOMMENDATION(S)

1. Approve **Contract No. 24-1132** with Southern California Edison, including non-standard terms, in an amount not to exceed \$6,430.41, for the extension of electrical distribution lines for the El Rivino Road and Agua Mansa Road Project in the Bloomington area.
2. Authorize the Director of the Department of Public Works to electronically execute the contract in Recommendation No. 1 with Southern California Edison and any non-substantive amendments, subject to County Counsel review.
3. Direct the Director of the Department of Public Works to provide a fully executed copy of the contract with Southern California Edison and transmit any subsequent, non-substantive amendments in relation to this contract to the Clerk of the Board of Supervisors within 30 days of execution.

(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 El Rivino Road and Agua Mansa Road Project in the Bloomington Area (Project) is funded by Senate Bill 1 (SB1) Road Maintenance and Rehabilitation Account (RMRA) revenue and Developer (Ad-Hoc) Fees. Sufficient appropriation and revenue are included in the Department of Public Works (Department) 2024-25 Road Operations budget (6650002000 14H15166).

BACKGROUND INFORMATION

The Department has determined the need for traffic signals at the Project 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 utilizes a standard Agreement for extensions of electrical distribution lines, which is on file with the Public Utilities Commission. SCE requires use of this Agreement and its appendices to be executed by the County under SCE's Rule 15.

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This Agreement 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 omit certain County standard language. The non-standard and missing terms include the following:

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 the County or its contractor and employees, officers or agents of either 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 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 there is a 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

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without any obligation other than to pay amounts for services rendered and expenses reasonably incurred prior to the effective date of termination.

- 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, in order to install an electrical distribution line extension to energize the traffic signals in connection with Project. SCE requires this Agreement and its appendices to be executed by the County under SCE's Rule 15.

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 \$9,157.23 or a discounted option of \$6,430.41 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 Board approval of the discounted option at a cost of \$6,430.41.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Aaron Gest, Deputy County Counsel, 387-5455) on November 6, 2024; Finance (Jessica Trillo, Administrative Analyst, 387-4222) on October 29, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on November 1, 2024.

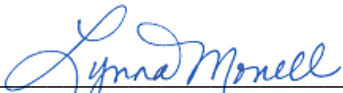
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: November 19, 2024



cc: PW/Trans - Nguyen w/agree for sign
Contractor - c/o PW/Trans w/agree
File - w/agree
MBA 11/27/2024