



San Bernardino County

Legislation Text

File #: 1424, Agenda Item #: 46

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

December 17, 2019

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

MAZIN KASEY, Deputy Director, Department of Public Works-Transportation

SUBJECT

Approval of Right-of-Way Grant/Temporary Use Permit with the Bureau of Land Management for Needles Highway between the City of Needles and the California/Nevada Border

RECOMMENDATION(S)

1. Approve the Right-of-Way Grant/Temporary Use Permit Serial No. CACA 57793 with the Bureau of Land Management for the ongoing operation and maintenance of the existing Needles Highway and use of a mixing table site for those reaches of Needles Highway within the Bureau of Land Management's withdrawn lands situated between the City of Needles and the California/Nevada border, and further permitting construction and future maintenance for the proposed Needles Highway Roadway and Drainage Improvement Project (Project) for an approximate 7.06-mile stretch once constructed, commencing upon execution by the Bureau of Land Management through December 31, 2047 for no cost.
 2. Authorize the Director of the Real Estate Services Department to execute any other documents necessary to complete this transaction.
- (Presenter: Terry W. Thompson, Director, 387-5252)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will not require Discretionary General Funding (Net County Cost). There is no cost associated with the Right-of-Way Grant/Temporary Use Permit. Maintenance cost associated with the existing Needles Highway are included in the Department of Public Works-Transportation (DPW-T) 2019-20 Road Operations Budget (6650002000).

The funding for the design of the Project ("N" Street to State Line) and construction of the current phase within city limits is funded by Public Land Highway (PLH) funds, which is no longer available for future phases. DPW will continue to seek future funding sources for the remaining roadway widening and bridge projects estimated at \$170,000,000.

BACKGROUND INFORMATION

The recommended actions will approve the Right-Of-Way Grant / Temporary Use Permit (Permit) issued by the

Bureau of Land Management (BLM) authorizing DPW-T to enter BLM jurisdictional lands to maintain existing Needles Highway and to use an identified site facility for road material mixing, and to allow for the construction of the proposed realignment and reconstruction of portions of Needles Highway as set forth in the Project, for a term commencing upon execution by the BLM through December 31, 2047.

DPW-T is the lead agency responsible for the design, right-of-way and construction of the realignment Project which extends from "N" Street in the City of Needles (City) to the California/Nevada State Line. DPW-T has also been operating and maintaining an approximate 12 mile stretch of Needles Highway beginning at the north line of the City of Needles through to the California/Nevada state line for decades.

During the course of examining property rights for the proposed Project to realign and reconstruct portions of Needles Highway, it was determined by DPW-T and the BLM that the BLM had not issued rights to the County to perform maintenance on the existing Needles Highway over the withdrawn BLM lands. The proposed Permit is two-fold in that it grants rights to the County to continue maintenance on Needles Highway and for the use of a site facility as a mixing table, and it also authorizes the future construction and maintenance of the right-of-way as proposed by the Project.

The existing Needles Highway is predominantly one lane in each direction with soft shoulders and has horizontal and vertical curve sight limitations. The occasional storm, coupled with drainage issues and sloping terrain, also impact the roadbed over time. The Project as proposed will level the roadbed topography and improve drive site distance and comfort. Also, the proposed Project will provide access for installation of paved shoulders and culverts to improve drainage. The designated allowable road right of way authorized in this Permit is 600 feet of road width (300 foot half-width from centerline), which will accommodate the final road design, including drainage improvements and slope maintenance.

On May 11, 2010 (Item No. 58), the Board of Supervisors (Board) approved an application for a license to the BLM for the construction of the Project on federal lands in the Needles area for a portion of the same reach. The County was subsequently directed by Bureau of Reclamation (BOR), a local jurisdiction, to re-submit the 2010 application to allow the BOR to review it for all federal lands within the Project limits.

On August 19, 2014 (Item No. 38), in accordance with the California Environmental Quality Act (CEQA), the Board adopted a Mitigated Negative Declaration and Notice of determination and adopted the mitigation monitoring reporting project. The environmental review set forth the finding that the Project will not have a significant effect on the environment after implementation of the mitigation measures.

On June 28, 2016 (Item No. 56) the Board approved the resubmission of the Application for Transportation and Utility Systems and Facilities for the portion of the Project located on federal lands under the jurisdiction of the BOR/BLM. There is one right-of-way design difference between the previously approved Application with the BLM and this resubmittal to the BOR/BLM, and that is the increased width of the right-of-way area from 100 foot half-width from the centerline of the road to 300 foot half-width from centerline. The BOR incorporated that right-of-way design revision in its review.

On January 23, 2018 (Item No. 41), the BOR approved the License and Contract No. 16-07-34-L1878 (License) authorizing DPW-T rights to enter, construct, and maintain Needles Highway pursuant to the new design. DPW has completed 95% of the roadway geometric design and received approval of the design by the BOR, but County staff were subsequently informed after this 2018 Board action that the BOR's review and approval of those plans did not approve use of the federal lands in BLM jurisdiction. The BOR and BLM further noted that there were no records on hand authorizing the County's maintenance of existing Needles Highway on federal lands.

Discrepancies about which lands were in BOR jurisdiction and BLM jurisdiction were identified and new right-of-way legal descriptions for both the existing roadway and the Project were submitted to both federal entities

for their respective approval. With the revised right-of-way legal descriptions of Needles Highway across the federal lands, the BOR was able to internally amend the License approved by the Board in 2018 to include authorizing maintenance on existing Needles Highway within BOR jurisdiction. This Permit will provide the County with the same general authority, but over lands in the jurisdiction of the BLM.

Approving this Right-of-Way Grant/Temporary Use Permit with the BLM will provide the County the right to construct, operate, maintain, and terminate Needles Highway, for both the existing right-of-way, and as proposed by the Project, and grants use of the mixing pad site for maintenance purposes, for those federal lands in the authority of the BLM.

The Permit is issued at no cost and expires on December 31, 2047. Rights to renew were not automatically granted, but can be authorized subject to existing regulations at the time of renewal. The Permit further sets forth environmental stipulations and provisions for the construction of the new alignment. Should the County terminate or vacate the public lands, all improvements must be removed within 90 days of termination of the Permit.

Approval of this item will authorize the County to accept the Permit issued by the BLM for DPW-T to continue operation and maintenance of existing Needles Highway, make use of the mixing table for road bed materials, and to construct the new Needles Highway alignment for those federal lands lying within the limits of the Needles Highway Roadway and Drainage Improvement Project footprint. The BLM has the authority to grant said rights pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Robert Messinger, Principal County Counsel and Suzanne Bryant, Deputy County Counsel, 387-5455) on November 19, 2019; DPW (Brandon Biggs, Deputy Director of Operations) on November 6, 2019; Finance (Monique Amis, Administrative Analyst, 387-4883 and Jessica Trillo, Administrative Analyst, 387-4222) on November 26, 2019; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on November 27, 2019.

(MJR: 387-5106)