



San Bernardino County

Legislation Text

File #: 4318, Agenda Item #: 110

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

June 8, 2021

FROM

**BRENDON BIGGS, Director, Department of Public Works - Special Districts
TERRY W. THOMPSON, Director, Real Estate Services Department**

SUBJECT

Appraisal and Resolution of Necessity for Acquisition by Eminent Domain of Right-of-Way and Drainage Easements Over Southern California Edison Company Land and City of Los Angeles Land for the Snowdrop Road Improvement Project in Unincorporated San Bernardino County and the City of Rancho Cucamonga

RECOMMENDATION(S)

1. Conduct a public hearing to consider condemnation of real property for easements for road and drainage purposes [Assessor Parcel Numbers (APNs) 0201-043-26; 0201-281-13; 0201-043-08; 0201-043-35 and 0201-281-14] from Southern California Edison Company and the City of Los Angeles for the Snowdrop Road Improvement Project (Project).
2. Approve Appraisals No. 20-72 and No. 20-73 dated November 3, 2020 and November 16, 2020, respectively, copies of which are on file with the Real Estate Services Department.
3. Authorize the acquisition of three permanent easements over portions of three parcels (APNs 0201-043-26, 0201-281-13, and 0201-043-08) from Southern California Edison Company and four permanent easements over portions of two parcels (APNs 0201-043-35 and 0201-281-14) from the City of Los Angeles for the Project in unincorporated San Bernardino County and the City of Rancho Cucamonga.
4. Adopt a Resolution of Necessity authorizing the filing of a court action to condemn the above-described real property interests declaring the following:
 - a. The public interest and necessity for the Project is described in the proposed Resolution of Necessity.
 - b. The Project is planned and/or located in the manner that will be most compatible with the greatest public good and the least private injury.
 - c. The property to be acquired is necessary for the Project.
 - d. An offer required by Section 7267.2 of the Government Code has been made to the owners of record (Four votes required).
5. Authorize the Director of the Real Estate Services Department to execute any documents and take any actions necessary to complete these transactions, subject to County Counsel review.
(Presenter: Terry W. Thompson, Director, 387-5000)

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.**

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The County's total cost to acquire the seven permanent easements is \$39,941, plus a 10% contingency amount in the event of an administrative settlement, plus escrow and title fees estimated to be \$7,000, for an aggregate acquisition cost not to exceed \$50,935. The Project is funded by voter approved Assessment District 2018-1. Sufficient appropriation is included in the Project budget (1050003600).

BACKGROUND INFORMATION

This item recommends the approval of the appraisal and acquisition of seven permanent easements for roadway and drainage purposes and, following a public hearing, the adoption of a Resolution of Necessity authorizing condemnation of said seven easements comprising a total of 42,570 square feet, situated on portions of APNs 0201-043-26, 0201-281-13, 0201-043-08, 0201-043-35 and 0201-281-14 located in both unincorporated San Bernardino County and the City of Rancho Cucamonga.

The Project involves improvements to approximately 2.1 miles of roadway and associated drainage improvements. These improvements will be approximately 1.3 miles of Snowdrop Road between Archibald Avenue to the west and Haven Avenue to the east, approximately 0.5 miles of Archibald Avenue south of Snowdrop Road, and approximately 0.3 miles of Haven Avenue south of Snowdrop Road within the City of Rancho Cucamonga's sphere of influence, in unincorporated San Bernardino County. Currently, portions of the existing roadway are partially paved.

Before proceeding with the Project, easements will be required from various property owners fronting Haven Avenue, Snowdrop Road, and Archibald Avenue to allow for the widening and repaving of the road, as well as upgrading the drainage improvements. Three of the parcels, from which three right-of-way easements totaling 18,900 square feet are needed, are owned by Southern California Edison Company (SCE). Two of the parcels, from which right-of-way easements totaling 22,209 square feet and drainage easements totaling 1,461 square feet are needed, are owned by the City of Los Angeles and controlled by the Los Angeles Department of Water and Power (LADWP).

The Department of Public Works - Special Districts (Special Districts) and the Real Estate Services Department (RESA) have been discussing the Project with SCE and LADWP since early 2020. Special Districts requested RESA complete appraisals and make offers to acquire the necessary easements from SCE and LADWP. RESA prepared Appraisal No. 20-72, dated November 3, 2020, which established a value of \$19,459 for the 18,900 total square footage of easements for the SCE property, and Appraisal No. 20-73, dated November 14, 2020, which established a value of \$20,482 for the 23,670 total square footage of easements on the LADWP property, both of which are on file with RESA.

During negotiations, it became apparent that SCE & LADWP's approval process for the County to acquire the easement interests via negotiated purchase will exceed the timeline for completion of the Project, scheduled for spring of 2022, and therefore condemnation via court action is necessary to ensure timely completion. For SCE, upon filing the action, the County will lodge a proposed stipulated judgement with the court to include a provision for the County to take immediate possession of the easements. In the interest of causing the least harm to the condemnee, as required by California eminent domain law, this item recommends using SCE's form of easement for the SCE acquisitions, which contain a unilateral indemnity of SCE by the County. For LADWP, filing an immediate court action is not contemplated, but adopting the Resolution of Necessity is necessary to preserve the County's right to condemnation should the negotiations with LADWP continue to jeopardize Project deadlines.

Approval of this item will allow the County to acquire the necessary right-of-way for the Project 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.

Adoption of this Resolution of Necessity will allow the County to proceed with the condemnation of these properties and gain clear title to the required right-of-way for the Project. The County is authorized to acquire property by eminent domain pursuant to Government Code Section 25350.5. RESD has sent all required notices to SCE and the City of Los Angeles. The properties included in the Resolution of Necessity are:

<u>APN</u>	<u>Property Owner</u>	<u>Easement Type</u>	<u>Acq. Size</u>
0201-043-26 (portion)	Southern California Edison	Right-of-Way	4,950 sf
0201-281-13 (portion)	Company	Right-of-Way	4,950 sf
0201-043-08 (portion)	Southern California Edison	Right-of-Way	9,000 sf
	Company		
0201-043-35 (portion)	City of Los Angeles	Right-of-Way	9,020 sf 943
		Drainage	sf
0201-281-14 (portion)	City of Los Angeles	Right-of-Way	13,189 sf
		Drainage	518 sf

The Project was reviewed pursuant to the California Environmental Quality Act. An Initial Study and Mitigated Negative Declaration (IS/MND) was approved by the Board on March 19, 2019 (Item No. 41) and a Notice of Determination (NOD) was posted. In July of 2020, a peer review of a Project redesign to narrow portions of the road determined the Mitigated Negative Declaration was still sufficient and the Board approved an addendum to the IS/MND on November 17, 2020 (Item No. 61). The NOD was refiled with the Clerk of the Board on January 5, 2021.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Robert Messinger, Principal Assistant County Counsel, Katherine Hardy, Deputy County Counsel, and Mitchell L. Norton, Deputy County Counsel, 387-5455) on April 27, 2021; Special Districts (Trevor Leja, Deputy Director, 361-2337) on May 24, 2021; Purchasing (Bruce Cole, Supervising Buyer, 387-2164), on April 8, 2021; Finance (Carl Lofton, Administrative Analyst, 387-5404 and Tom Forster, Administrative Analyst, 387-4635) on May 24, 2021; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on May 24, 2021.

(RTA: 266-6533)