

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Prepared on: 08/15/2005
Department Name: General Services and
Public Works
Department No.: 063 & 054
Agenda Date: September 13, 2005
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:
Document File Name:

TO: Board of Supervisors
and
Board of Directors
Laguna County Sanitation District

FROM: Tom Alvarez, General Services Director
Phillip M. Demery, Public Works Director

STAFF CONTACT: Ronn Carlentine, Real Property Manager 568-3078
Mark A. Schelich, Deputy Director 568-3603
Martin J. Wilder, District Manager, 739-8755

SUBJECT: Bradley-Solomon Trunk Line Extension and Regional Retention Basin "B"
Fourth Supervisorial District

Recommendation(s):

That the Board of Supervisors and Board of Directors:

Set a hearing on the departmental agenda for September 20, 2005 (20 minutes) to do the following:

1. Adopt the Resolution of Necessity on behalf of the County of Santa Barbara regarding the acquisition of easements for the purposes of a flood basin with a temporary construction easement, westerly road access including Class 1 bike path/multi-use trail, easterly access including Class 1 bike path/multi-use trail, and any related public improvements on a portion of property owned by Thomas California Investments and located on Assessor Parcel No. 103-200-067, in connection with the Regional Retention Basin "B" Project in Orcutt near Bradley Road and Clark Avenue in the Fourth Supervisorial District; (4/5 vote) and
2. Adopt the Resolution of Necessity on behalf of the Laguna County Sanitation District regarding the acquisition of an easement for the purposes of sewer improvements and/or accept an existing private sewer pipeline, related sewer improvements and an associated sewer pipeline easement on a portion of property owned by Thomas California Investments and located on Assessor Parcel No. 103-200-067, in connection with the Bradley/Solomon Sewer Truck Line Extension Project in Orcutt near Bradley Road and Clark Avenue in the Fourth Supervisorial District. (4/5 vote)

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Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 1,"An Efficient Government Able to Anticipate and Respond Effectively to the Needs of the Community," and Goal No. 2,"A Safe and Healthy Community in Which to Live, Work, and Visit."

Executive Summary and Discussion:

The Resolution of Necessity encompasses the real property owned by Thomas California Investments, located in Orcutt near Bradley Road and Clark Avenue in the Fourth Supervisorial District which the County is seeking to acquire easements for the purposes of a flood basin with a temporary construction easement, westerly road access including Class 1 bike path/multi-use trail, easterly access including Class 1 bike path/multi-use trail, sewer improvements and/or accept an existing private sewer pipeline, related sewer and public improvements on a portion of the property. Upon adoption of this Resolution, County Counsel and Special Legal Counsel of the Law Firm of Oliver, Vose, Sandifer, Murphy & Lee shall commence with the necessary condemnation proceedings in Superior Court.

On August 12, 2005, written offers of Just Compensation which total \$26,750.00 have been sent to Thomas California Investments, owner of the property. This owner has not accepted our written offer to purchase the subject easements.

Pursuant to Section 1245.235 of the Code of Civil Procedure, a hearing must be held prior to adoption of a Resolution of Necessity. Notice of this September 20, 2005 hearing was sent to the affected owner by the Real Estate Services Offices as required by said Code Section.

As identified in the Orcutt Community Plan, these necessary public improvements would serve multiple subdivisions. Development of these public improvements will implement Orcutt Community Plan Policy which directs the County to construct and maintain such systems in Orcutt. The Orcutt Community Plan set forth certain Goals, Policies, Programs, Actions, and Development standards which provide the framework for all development in Orcutt. The following information is background to the Regional Retention Basin "B" Project and Bradley/Solomon Sewer Truck Line Extension Project.

Cooperative Agreement

On December 2, 2003, the County of Santa Barbara, the Laguna County Sanitation District, and Wellmack, LLC (Developer) entered into a Cooperative Agreement for the purpose of expediting development of a Subdivision known as Jensen's Crossing Cobblestone Creek, TM 14,429 and Development Plan 97-DP-018, on key Site 5 under the adopted Orcutt Community Plan. The parties agreed that Developer will fund the County acquisition of necessary easements, and Developer will construct the public improvements in connection with the Regional Retention Basin "B" Project and Bradley/Solomon Sewer Truck Line Extension Project.

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Sewer Truck Line

The Solomon trunk sewer line in its entirety exists or is planned per the District's 1959 master planning map. The Solomon trunk line is backbone infrastructure that extends from the reclamation plant to Stillwell Road more or less adjacent to Orcutt (Solomon) Creek and collects wastewater from the southern portion of the District. Initial facilities (1960) constructed to serve the southern area included a lift station at Clark Avenue and Blosser Road, which was used to pump wastewater northern trunk line. The lift station was an incremental and temporary collection facility that was planned for replacement with a permanent gravity trunk line in 1990. An additional pump was added extending the replacement date to 2002 when the first segment, the Dutard-Solomon trunk line from the plant to the lift station was completed. This project further extends the trunk line from Bradley Road to Stillwell Road.

The District has been collecting trunk line fees as adopted by the board since 1993 to reimburse the District for constructing the Dutard-Solomon trunk line extension. Development has been conditioned to construct the Bradley-Solomon trunk line extension. The Orcutt Community Plan (OCP) conditions include the requirement that both trunk line extensions must be in place before development can be approved. To date the District has completed the Dutard-Solomon trunk line and the removal of the Clark Avenue lift station. This project involved the acquisition of fifteen separate easements. The Bradley-Solomon project involves the construction of a new trunk line from an existing District manhole located in Bradley Road to Stillwell Road all on the north side of Orcutt (Solomon) Creek and involves seven separate parcels. This extension will primarily serve the southeastern portion of the District. The project was included in the Orcutt Community Plan EIR dated December 1995 and approved by your board July 22, 1997 (Clerk of the Board file No. 20,536).

As outlined in the 1993 trunk line fee study, the construction of both trunk lines was to be sponsored by the District. However, significant capital was required for the Dutard-Solomon segment and for plant upgrades to comply with Regional Water Quality Control Board (RWQCB) Waste Discharge Requirements (WDRs). For this reason, private interests have been conditioned to construct the Bradley-Solomon segment of the trunk line for dedication to the District. At this time, pipeline design has identified the route for the project. The route extends through five parcels not held in public ownership or by developer interests. To date the developer has been unsuccessful in acquiring all the necessary easements. Pursuant to Section 66462.5 of the Subdivision Map Act, the County shall acquire the necessary right-of-way to construct the project.

Regional Retention Basin "B"

Basin "B" was identified in the Orcutt Community Plan as a regional retention basin that would serve multiple subdivisions. Development of this regional basin will eliminate the need for each subdivision to handle retention of its storm water on-site, resulting in more efficient land use. Development of Basin "B" will implement Orcutt Community Plan Policy FLD-0-4 which directs the County to construct and maintain a regional retention basin system in Orcutt if feasible.

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On July 27, 2004 the County Board of Supervisors approved addendums to the Orcutt Community Plan Program 95-EIR-01. The addendums for the basin, trails, and sewer line reaffirms the conclusion of earlier addenda that there are no new impacts associated with acquisition and construction of these public improvements.

Mandates and Service Levels:

There are no changes to service levels with this action.

Fiscal and Facilities Impacts:

Funding is available through a deposit from the developer placed into a County trust account as detailed in the Cooperative Agreement.

Special Instructions:

The Clerk should retain the original Resolution in the Board's file and return a certified copy of the Resolution and Minute Order to the Real Estate Services Office, attention Ronn Carlentine.

Project: Regional Basin
Folio: 003453
Agent: RC

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF INSTITUTING)
PROCEEDINGS AND MAKING A FINDING)
OF PUBLIC NECESSITY FOR THE)
ACQUISITION OF CERTAIN PROPERTY)
IN THE FOURTH SUPERVISORIAL DISTRICT,)
COUNTY OF SANTA BARBARA, FROM)
THOMAS CALIFORNIA INVESTMENTS)

RESOLUTION NO. _____
(2/3 vote required)

BE IT RESOLVED, that the Board of Supervisors of the County of Santa Barbara, State of California, does hereby find and determine as follows:

A. COUNTY has approved design, plans and specifications to construct a flood basin with a temporary construction easement, westerly road access including Class 1 bike path/multi-use trail, easterly access including Class 1 bike path/multi-use trail, and any related public improvements on a portion of the Property in connection with the proposed Regional Retention Basin "B" Project, hereinafter referred to as the "Basin Project" in the real property located in the Fourth Supervisorial District, to wit, County Assessor Parcel No. 103-200-067, hereinafter legally described.

B. That the intent is to acquire such real property for all the uses and purposes of flood basin with a temporary construction easement, westerly road access including Class 1 bike path/multi-use trail, easterly access including Class 1 bike path/multi-use trail, and for purposes under the authority of:

1. Article I, Section XIX of the California Constitution;
2. Code of Civil Procedure; Section 1240.010, 1240.110, 1240.120, 1230.020 and 1240.020;
3. Government Code Section 25350.5;

C. That such certain real property within the unincorporated territory of the County of Santa Barbara, State of California, is described on Exhibits "A," "B," "C," and "D" attached hereto and made a part hereof;

D. That the Board of Supervisors recognizes its prior approval of Project and Notice of Exemption pursuant to California Environmental Quality Act (CEQA) guidelines; as such, *inter alia*, the County has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the acquisition of real property to be acquired herein is within the boundaries of the County and hereinafter described as necessary for the benefit of the County as part of its infrastructure for flood basin

with temporary construction easement, and westerly and easterly access and bike path/multi-use trail in the County; and

F. That pursuant to Government Code Section 1245.235, notice and an opportunity to be heard was given to the person(s) shown on the last equalized County assessment roll for the real property to be acquired herein and said person(s) was provided with a proper Appraisal Summary Statement; and

G. That pursuant to Government Code Section 7267.2 the owner(s) of record was offered just compensation for the real property hereinafter described; and

H. That the public interest and necessity require the acquisition of the real property hereinafter described, for public use purposes, namely, for flood basin with temporary construction easement, westerly and easterly access and bike path/multi-use trail in the County; and

NOW, THEREFORE it is found, determined and resolved by at least a two-thirds (2/3) vote of this Governing Board, as follows:

1. The real property and real property interests to be acquired are to be acquired in easement, and are located within the county's boundaries and are described as Assessor Parcel No. 103-200-067, and as more particularly described in Exhibit "A," "B," "C," and "D", attached hereto and incorporated by reference herein.

2. The public interest and necessity require the Basin Project, said Basin Project being for the benefit of the County and, therefore, a public use, and the property described in said Exhibit "A," "B," "C," and "D" be taken for such public use.

3. The public use to which the real property will be put is for public flood basin with temporary construction easement, westerly and easterly access and bike path/multi-use trail purposes.

4. The property described in the Resolution is necessary for the Basin Project. The staff report of the County is hereby incorporated by reference in support of these findings.

5. The public interest and necessity require the acquisition of easements on said real property described herein and in said Exhibit "A," "B," "C," and "D", and the taking of said real property is necessary for the implementation of the Basin Project in that the community is in great need of flood basin with temporary construction easement, access and trails, for the citizens of the county and it is hereby directed that said real property described in said Exhibit "A," "B," "C," and "D," be acquired by the County by eminent domain proceedings as hereinafter set forth.

6. Said Basin Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; that said Basin Project will benefit the general public in that it will provide necessary public infrastructure and that no other reasonable means of financing the implementation of the Basin Project are available to the community and that the aforesaid use to which the property is to be applied, i.e., flood basin with temporary construction easement, westerly and easterly access and bike path/multi-use trail purposes is a use authorized by law.

7. The County has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources by the filing with the County of its Notice of Exemption.

8. The offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record.

9. The County Counsel and General Services Departments of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Vose, Sandifer, Murphy, and Lee, are authorized and directed to perform all acts necessary on behalf of the County for the acquisition of said interest in real property, and to do any and all other things in connection with such proceedings as in his/her or their judgment may be necessary or convenient to the successful conclusion of said proceeding or proceedings, including obtaining of an Order for Immediate Possession, the preparation, filing, amendment, dismissal, etc. of all pleadings and stipulations that in the opinion of Special Counsel are necessary for the processing of the litigation.

10. The General Services Department is hereby authorized to expend funds on deposit with the Public Works Department and available to the County for the acquisition of the real property.

11. The Director of General Services Department is hereby individually authorized and directed to consent to and accept, on behalf of the County, all deeds and grants conveying any interest in the property as hereinabove described.

12. The Law Offices of Oliver, Vose, Sandifer, Murphy, and Lee, is hereby authorized and directed to record a certified copy of this Resolution in the Office of the County Recorder of the County of Santa Barbara. It may thereafter be referred to in any acceptance by any of the officers or agents referred to hereinabove with the same effect as though a certified copy of this Resolution were attached to the document accepted.

13. That County Counsel is authorized to make such changes to the project as he may deem appropriate to reduce any adverse impacts thereof on the owners' properties; make any such reductions in the acquisition as he may deem appropriate, including, without limitations, the authority to abandon, partially abandon, amend, partially amend, dismiss and/or partially dismiss the above-described lawsuit.

BE IT RESOLVED that the interest in the real property shown on Exhibit "A," "B," "C," and "D" attached hereto be condemned in the name of the County of Santa Barbara for said public purposes, as specified herein and County Counsel of the County of Santa Barbara and its Special Eminent Domain Counsel are hereby authorized, empowered, and directed to prepare and prosecute in the name of the County of Santa Barbara such proceeding or proceedings in the proper Court having jurisdiction thereof, as are necessary for such acquisition, and are authorized, at their discretion are authorized to apply for an order or orders fixing the amount of such security in the way of money deposits as said Court may direct, and for an order or orders permitting said County to take immediate possession and use of said real property for the public purposes.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day _____, 2005, by the following vote:

AYES;

NOES:

ABSTAINED:

ABSENT:

COUNTY OF SANTA BARBARA

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM
ROBERT W. GEIS, C.P.A.
AUDITOR-CONTROLLER

Exhibit "A"
(Flood Basin)
Legal Description

Exhibit "B"
(Temporary Construction Easement)
Legal Description

Exhibit "C"
(Westerly nonexclusive easement for Class 1 bike path/multi-use trail)
Legal Description

Exhibit "D"

(Easterly exclusive easement for Class 1 bike path/multi-use trail)
Legal Description

Project: Bradley/Solomon Sewer
Folio: 003453
Agent: RC

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
LAGUNA COUNTY SANITATION DISTRICT
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF INSTITUTING)
PROCEEDINGS AND MAKING A FINDING)
OF PUBLIC NECESSITY FOR THE)
ACQUISITION OF CERTAIN PROPERTY)
IN THE FOURTH SUPERVISORIAL DISTRICT,)
COUNTY OF SANTA BARBARA, FROM)
THOMAS CALIFORNIA INVESTMENTS)

RESOLUTION NO. _____
(2/3 vote required)

BE IT RESOLVED, that the Board of Supervisors of the County of Santa Barbara, State of California, does hereby find and determine as follows:

A. DISTRICT has approved design, plans and specifications to construct sewer improvements and/or accept an existing private sewer pipeline, related sewer improvements and an associated sewer pipeline easement on a portion of the Property in connection with the proposed Bradley/Solomon Sewer Trunk Line Extension Project, hereinafter referred to as the "Sewer Project"; and in the real property located in the Fourth Supervisorial District, to wit, County Assessor Parcel No. 103-200-067, hereinafter legally described.

B. That the intent is to acquire such real property for all the uses and purposes of sewer pipeline, and access and for purposes under the authority of:

1. Article I, Section XIX of the California Constitution;
2. Code of Civil Procedure; Section 1240.010, 1240.110, 1240.120, 1230.020 and 1240.020;
3. Government Code Section 25350.5;

C. That such certain real property within the unincorporated territory of the County of Santa Barbara, State of California, is described on Exhibit "A," attached hereto and made a part hereof;

D. That the Board of Supervisors recognizes its prior approval of Project and Notice of Exemption pursuant to California Environmental Quality Act (CEQA) guidelines; as such, *inter alia*, the County has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the acquisition of real property to be acquired herein is within the boundaries of the County and hereinafter described as necessary for the benefit of the County as part of its infrastructure for sanitation, and convert a private sewer easement to public easement in the County; and

F. That pursuant to Government Code Section 1245.235, notice and an opportunity to be heard was given to the person(s) shown on the last equalized County assessment roll for the real property to be acquired herein and said person(s) was provided with a proper Appraisal Summary Statement; and

G. That pursuant to Government Code Section 7267.2 the owner(s) of record was offered just compensation for the real property hereinafter described; and

H. That the public interest and necessity require the acquisition of the real property hereinafter described, for public use purposes, namely, for infrastructure for sanitation, and convert a private sewer easement to public easement in the County; and

NOW, THEREFORE it is found, determined and resolved by at least two-thirds (2/3) vote of this Governing Board, as follows:

1. The real property and real property interests to be acquired are to be acquired in easement, and are located within the county's boundaries and are described as Assessor Parcel No. 103-200-067, and as more particularly described in Exhibit "A," attached hereto and incorporated by reference herein.

2. The public interest and necessity require the Sewer Project, said Sewer Project being for the benefit of the County and, therefore, a public use, and the property described in said Exhibit "A," be taken for such public use.

3. The public use to which the real property will be put is for public infrastructure for sanitation, and convert a private sewer easement to public easement purposes.

4. The property described in the Resolution is necessary for the Sewer Project. The staff report of the County is hereby incorporated by reference in support of these findings.

5. The public interest and necessity require the acquisition of an easement on said real property described herein and in said Exhibit "A," and the taking of said real property is necessary for the implementation of the Sewer Project in that the community is in great need of sanitation infrastructure for the citizens of the county and it is hereby directed that said real property described in said Exhibit "A," be acquired by the County by eminent domain proceedings as hereinafter set forth.

6. Said Sewer Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; that said Project will benefit the general public in that it will preserve access to the waterfalls, preserve the wildlife conservation and preserve the property in its natural condition and that no other reasonable means of financing the implementation of the Project are available to the community and that the aforesaid use to which the property is to be applied, i.e., infrastructure for sanitation, flood basin, access and bike path/multi-use trail purposes, and private sewer easement to public easement is a use authorized by law.

7. The County has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources by the filing with the County of its Notice of Exemption.

8. The offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record.

9. The County Counsel and General Services Departments of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Vose, Sandifer, Murphy, and Lee, are authorized and directed to perform all acts necessary on behalf of the County for the acquisition of said interest in real property, and to do any and all other things in connection with such proceedings as in his/her or their judgment may be necessary or convenient to the successful conclusion of said proceeding or proceedings, including obtaining of an Order for Immediate Possession, the preparation, filing, amendment, dismissal, etc. of all pleadings and stipulations that in the opinion of Special Counsel are necessary for the processing of the litigation.

10. The General Services Department is hereby authorized to expend funds on deposit with the Public Works Department and available to the County for the acquisition of the real property.

11. The Director of General Services Department is hereby individually authorized and directed to consent to and accept, on behalf of the County, all deeds and grants conveying any interest in the property as hereinabove described.

12. The Law Offices of Oliver, Vose, Sandifer, Murphy, and Lee, is hereby authorized and directed to record a certified copy of this Resolution in the Office of the County Recorder of the County of Santa Barbara. It may thereafter be referred to in any acceptance by any of the officers or agents referred to hereinabove with the same effect as though a certified copy of this Resolution were attached to the document accepted.

13. That County Counsel is authorized to make such changes to the project as he may deem appropriate to reduce any adverse impacts thereof on the owners' properties; make any such reductions in the acquisition as he may deem appropriate, including, without limitations, the authority to abandon, partially abandon, amend, partially amend, dismiss and/or partially dismiss the above-described lawsuit.

BE IT RESOLVED that the interest in the real property shown on Exhibit "A," attached hereto be condemned in the name of the Laguna County Sanitation District for said public purposes, as specified herein and County Counsel of the County of Santa Barbara and its Special Eminent Domain Counsel are hereby authorized, empowered, and directed to prepare and prosecute in the name of the Laguna County Sanitation District such proceeding or proceedings in the proper Court having jurisdiction thereof, as are necessary for such acquisition, and are authorized, at their discretion are authorized to apply for an order or orders fixing the amount of such security in the way of money deposits as said Court may direct, and for an order or orders permitting said District to take immediate possession and use of said real property for the public purposes.

PASSED AND ADOPTED by the Board of Directors of the Laguna County Sanitation District, County of Santa Barbara, State of California, this _____ day _____, 2005, by the following vote:

AYES;

NOES:

ABSTAINED:

ABSENT:

COUNTY OF SANTA BARBARA

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

By: _____
Deputy

(Resolution of Necessity County signature page continued)

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM
ROBERT W. GEIS, C.P.A.
AUDITOR-CONTROLLER

Exhibit "A"
(Sewer Pipeline)
Legal Description