



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: Public Works/General Services
Department No.: 054/063
For Agenda Of: November 15, 2016
Placement: Departmental
Estimated Tme: 20 minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors
FROM: Department Director Scott McGolpin, Director of Public Works, 568-3010
Matthew P. Pontes, Director of General Services, 560-1011
Contact Info: Chris Sneddon, Deputy Director – Transportation, 568-3005
Skip Grey, Assistant Director of General Services, 568-3096
**SUBJECT: Resolution of Necessity for San Jose Creek Bike Path
Project for a Fee Acquisition from Southern California
Edison, Second Supervisorial District (APN: 069-100-004)**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve, adopt, and authorize the Chair to execute the attached Resolution of Necessity (Attachment 1) to initiate the acquisition, through eminent domain and for the San Jose Creek Bike Path Project (County Project No. 862085) (“Project”), of a fee parcel (“Parcel”) from Southern California Edison Company (“SCE”) derived from the real property currently known as Santa Barbara County Assessor Parcel Number 069–100–004 (“Property”), Second Supervisorial District;
- b) Approve and authorize the Director of Public Works, or designee, to execute any documents and to expend funds, estimated at \$18,000.00 plus related costs and fees, required to acquire the Parcel and to convey to SCE a permanent easement over the Parcel;
- c) Approve and authorize the Clerk to execute a Certificate of Acceptance for the Parcel, which will be attached to the Grant Deed prior to recordation (Attachment 2);
- d) Authorize the Director of Public Works, or designee, to deposit with the Santa Barbara Superior Court a sum equal to the Parcel’s appraised fair market value, estimated at \$35,800.00, plus related costs and fees, in order to acquire the Parcel; and

- e) Find, pursuant to State CEQA Guidelines Section 15162, that no substantial changes are proposed and no new information of substantial importance has come to light regarding environmental effects of the project or of the sufficiency or feasibility of mitigation measures, and therefore the proposed actions are within the scope of the Mitigated Negative Declaration, 14-NGD-00000-00001, for the San Jose Creek Bike Path Project, Kellogg Avenue to Merida Drive, adopted and approved by the Board of Supervisors on August 25, 2015, and that therefore no new environmental document is required.

Summary Text:

This Resolution of Necessity is before the Board to initiate the acquisition, through eminent domain, of the Parcel for the Project. The Parcel is a portion of the Property, which SCE currently owns in fee and operates as a substation. The County has determined that the Project is in the public interest and that acquiring the Parcel is necessary to construct the Project. Proceeding under eminent domain authority is necessary at this time to meet the Project Construction that is scheduled for the summer of 2017. Upon adoption of this Resolution, County Counsel and Special Legal Counsel to the County shall commence condemnation proceedings in Superior Court.

Background:

Your Board approved the Project on August 25, 2015. The Project will construct along the bank of San Jose Creek in the unincorporated area of Goleta approximately 0.2 miles of an approximately 10-foot wide, Class I bikeway, including a steel bridge that will span approximately 140 feet over San Jose Creek. (See Vicinity Map on Page 5 of this Board Letter.) The Project is the northernmost segment of a larger planned project to construct a regional bikeway that will ultimately go under Highway 101 in the City of Goleta and tie into the existing bicycle network at Goleta Beach. The middle and south segments are under the City of Goleta's jurisdiction and are currently in the preliminary engineering phases. This northern segment of San Jose Creek Bike Path within the County can serve as a stand-alone segment that is not dependent on the completion of the middle and south segments.

Upon completion, the Project will meet the transportation and land use planning goals defined in both the City of Goleta General Plan Circulation Element and the Santa Barbara County Comprehensive Plan Circulation Element. The Project is also consistent with the Goleta Community Plan. The project was identified over 20 years ago in the Goleta Community Plan and is currently the number one priority in the County's Bicycle Master Plan.

Since the Project was approved in August 2015, County staff has met and negotiated extensively with SCE to acquire the real property interests required to construct the Project. The County and SCE mutually agreed that the County should acquire the Parcel through eminent domain. Outside of eminent domain, the County intends to acquire from SCE at no cost a Temporary Right of Entry on an adjacent side of the same SCE Property to facilitate the Project's construction and proposes to convey to SCE a permanent easement over the Parcel.

In accordance with Government Code Section 7267.2, et seq., the County has sent SCE three offers for the real property interests required for the Project based on those interests' appraised, fair market value. According to the County's final offer, the appraised, fair market value for the Parcel (approximately \$35,800.00) minus the appraised, fair market value of the permanent easement the County intends to convey to SCE is approximately \$17,892.00. In the event that the parties are unable to reach a mutual agreement then the total fair market value of \$35,800.00 will be required to be deposited with the courts.

A Notice of Opportunity to be Heard at this hearing was sent to SCE in accordance with Section 1245.235 of the Code of Civil Procedure.

Despite a long period of negotiations and discussions, the parties have not been able to come to a final agreement. Negotiations will continue in order to resolve any concerns; however, these matters may not be resolved in time to meet the construction schedule. The parties will continue to work on the unresolved matters, and it is still possible that an agreement can be reached prior to completion of the condemnation proceedings. If agreement cannot be reached, approval of the Resolution of Necessity is the first step in the condemnation process, which will allow the Courts to determine just compensation for the property rights to be acquired and settle any unresolved issues.

Acquiring the Parcel by the County for the Project was found to be in compliance with the applicable policies of the County Comprehensive Plan, thereby satisfying the requirements of California Government Code Section 65402(a). CEQA and Government Code Section 65402 requirements have been met for the Project, as set forth in the Mitigated Negative Declaration 14-NGD-00000-00001 for the Project, approved by the Board of Supervisors on August 25, 2015.

Performance Measure: N/A

Fiscal and Facilities Impacts:

The total appraised, fair market value for the fee parcel on a portion of the Southern California Edison Property is approximately \$35,800.00. The San Jose Creek Bike Path Project is included in the Five-Year Capital Improvement Program for Fiscal Year 2016-17. The right of way phase of this project is funded by Goleta Transportation Improvement Program fees and Regional Surface Transportation Program funding. The funds are budgeted in Department 054, Fund 0017, Org Unit 0600, Program 2830, and Account 8100. There will be no facilities impacts caused by this action.

Key Contract Risks: N/A

Special Instructions:

After Board action, please distribute as follows:

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| 1. Original Resolution & Minute Order, copy of Grant Deed with copy of attached Certificates of Acceptance | Clerk of the Board |
| 2. Certified copy of Resolution & Minute Order, Original Grant Deed with attached Certificates of Acceptance | General Services, Real Property Division, Attn: James Cleary |
| 3. Copy of Resolution & Minute Order | Public Works Transportation |

Attachments:

1. Attachment 1: Resolution of Necessity
2. Attachment 2: Certificate of Acceptance for Grant Deed

