

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 19.4
(ID # 21655)

MEETING DATE:
Tuesday, May 02, 2023

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Public Hearing for the Adoption of Resolution No. 2023-122, authorization to Adopt a Resolution of Necessity for the Gilman Springs Road Widening Project in the unincorporated area of Riverside, District 5. [\$0] (4/5th Vote Required)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that nothing further is required for the purchase of the permanent easements and temporary construction easements by the County as they have been adequately analyzed in the Final Initial Study/Mitigated Negative Declaration approved on September 13, 2022, (Item 3.20);
2. Approve Resolution No. 2023-122, Authorizing the Resolution of Necessity for the Gilman Springs Road Widening Project in the unincorporated territory of the County of Riverside, State of California, in the area of Moreno Valley;
3. Allocate the sum of \$77,850 for deposits to the State Condemnation Fund; and
4. Authorize reimbursement to the Transportation Department for costs not to exceed \$51,300 in due diligence and expenses and staff time.


ACTION:Policy, 4/5 Vote Required


Mark Lancaster, Director of Transportation 4/24/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
Nays: None
Absent: None
Date: May 2, 2023
xc: Transp.

Kimberly A. Rector
Clerk of the Board
By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: There are no General Funds used in this project.			Budget Adjustment:	No
			For Fiscal Year:	22/23

C.E.O. RECOMMENDATION: Approve

Summary

The County of Riverside Transportation Department (County), in cooperation with the California Department of Transportation (Caltrans) proposes to widen the median and shoulders of Gilman Springs Road from approximately 1.27 miles north of Jack Rabbit Trail to approximately 1.1 miles south of Bridge Street and covers a distance of approximately 4.35 miles.

The road configuration will have a 12-foot lane, five-foot paved shoulders with rumble stripes, and five-foot graded shoulders in each direction, and a four-foot, double-yellow striped median with rumble stripes and impact-resistant channelizers in the median ("Project"). The Project will also include one approximately 6,900-foot long passing lane in the westbound direction, from approximately 1,350 feet north of Bridge Street to approximately 1,200-feet north of Eden Hot Springs Road. Additionally, the Project will replace the existing reinforced-concrete box culvert at Bridge Street with a larger reinforced-concrete box culvert that will be used to create a wildlife crossing. The Project also includes the construction of retaining walls, reconstruction of driveway and street tie-ins, vegetation and tree removal, utility relocations, and other associated work as needed.

The Project is needed to provide safer travel for motorists and may reduce accidents by enabling motorists to safely pass slower vehicles by using the passing lane, will enable disabled vehicles to pull-off of the road onto the shoulder, and will encourage wildlife to use the wildlife crossing to cross beneath the road, therefore, reducing motorists having to swerve to avoid road-crossing wildlife.

Gilman Springs Road is classified as a Divided Major Arterial in the City of Moreno Valley's General Plan. The County of Riverside classifies this road as an arterial highway between the City of Moreno Valley and SR-79 and is a secondary highway between SR-79 to the end of the street where it becomes State Street.

On September 13, 2022, (Item 3.20), the Board of Supervisors approved a motion to adopt a Final Initial Study with Mitigated Negative Declaration and adopt a Mitigation Monitoring and Reporting Program and approved the Gilman Springs Road Widening Project. The Transportation Department, Survey Division-Real Property Team, has performed and/or

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oversighted the required right-of-way activities to acquire the necessary real property interests for the project such as appraisals, acquisition, relocation, and condemnation, if necessary, in accordance with applicable law, including Government Code section 7260 et seq. and Code of Civil Procedure section 1230.010 et seq.

Pursuant to the provisions of the California Environmental Quality Act (CEQA), the County has prepared an Initial Study (IS) and assessment of possible adverse impacts. The Project was determined not to have a significant impact on the environment with the inclusion of mitigation measures (MMs), which will reduce potential adverse impacts to less-than-significant levels. Therefore, the County has prepared a Mitigated Negative Declaration (MND) in accordance with the provisions of CEQA.

The Transportation Department, Real Property Team presented written offers to the property owners as required by Government Code section 7267.2. The amount of the offer is consistent with current property values in the area and is based upon a fair market value appraisal report. In accordance with the California Code of Civil Procedure, Section 1263.025, the County offered to pay reasonable costs, not-to-exceed \$5,000, for an independent appraisal to be obtained by the property owners.

The following property owners have executed the purchase agreements and are pending the close of escrow; the Real Property Team will continue to work with the owners to close the escrow. If any escrow is closed during the notification period and the public hearing, the County will not deem it necessary to continue with legal proceedings against any closed property owners. However, staff recommends including these properties due to potential unforeseen delays to close escrow and obtain necessary possession of the needed portion(s) of the property(ies).

Project Parcel No(s).	Assessor's Parcel No.(s)	Property Owner(s)
0161-013	423-190-015,423-190-018	ROBERT L. BAILEY

Negotiations are still ongoing with the property owners listed below for the property rights needed for the Project. The Real Property Team will continue to pursue good faith negotiations with the property owners in order to attempt to reach a mutually-agreed upon settlement.

Project Parcel No(s).	Assessor's Parcel No.(s)	Property Owner(s)
0161-002	423-240-015	SOUTHERN CALIFORNIA EDISON COMPANY
0161-004	423-240-010	LAUDA FAMILY LIMITED PARTNERSHIP
0161-005	423-240-014	SOUTHERN CALIFORNIA EDISON COMPANY
0161-006	423-240-025,423-240-026	GM GABRYCH FAMILY, a California

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		limited partnership
0161-007 and 0433-022	425-080-050	FRANCISCO and RUFINA RAMIREZ
0161-008	423-240-027	WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
0161-009	423-230-014	HAWK AND HAWK INVESTMENT FUND LLC
0161-010 and 0433-017	423-230-010,423-240-002	STATE OF CALIFORNIA
0161-011 and 0310-008	423-190-005,423-190-009,423- 19-030,423-230-002, 423-230- 005, (fka 423-230-050)	STATE OF CALIFORNIA
0161-012	423-190-029	ONESIMO AND SILVIA CORONEL
0161-014	423-190-017	DENNIS W. AND ROSALIE A. LAMONT
0161-015	422-230-009, 422-230-013, 422-240-006, 422-240-013, 422-240-014, 422-240-015, 423-190-001, 423-190-004, 423-190-010	HIGHLAND FAIRVIEW ENVIROMENTAL FOUNDATION, LLC., a Delaware limited liability company
0161-016	423-190-003	ALONSO L. AND SILVIA LEDEZMA
0161-017	423-190-001, 422-240-014	HIGHLAND FAIRVIEW ENVIROMENTAL FOUNDATION, LLC., a Delaware limited liability company
0161-018	423-180-012	MICHAEL A. and DINA M. VAN RYN
0161-019	423-180-008, 423-180-009	GILMAN SPRINGS ROAD, LLC, a California limited liability company
0161-020	423-180-002	WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
0161-021	423-080-003, 423-080-004, 423-080-005, 423-100-015, 423-100-016	HIGHLAND FAIRVIEW ENVIROMENTAL FOUNDATION, LLC., a Delaware limited liability company
0161-022	423-180-005,423-180-006	STATE OF CALIFORNIA
0161-023	423-100-017,423-100-019	MORENO GILMAN 650, LLC
0161-024	423-080-014, 423-080-016, 423-080-017, 423-100-021	HIGHLAND FAIRVIEW ENVIROMENTAL FOUNDATION, LLC., a Delaware limited liability company
0161-025	423-080-018	STATE OF CALIFORNIA
0161-026	423-240-001	GILMAN SPRINGS PARTNERS, LLC, a California Limited Liability Company

The Notice of Intention, Resolution No. 2023-079, was approved on April 4, 2023, as Minute Order 3.27, set the public hearing for May 2, 2023, for the proposed Adoption of Resolution No. 2023-122, setting the Resolution of Necessity Hearing for the Gilman Springs Road Phase IV Project and is needed for the project to move forward.

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STATE OF CALIFORNIA**

The County is authorized to acquire property by eminent domain under Article 1, Section 19 of the California Constitution and pursuant to various statutes including Government Code Section 25350.5, Streets and Highway Code section 760, and Code of Civil Procedure section 1240.010, 1240-020, 1240-030, 1240.040, 1240.110, 1240.310, 240.320, 1240.410, 12450.510, and 1240.610.

Impact on Citizens and Businesses

The Project will enhance the operational characteristics (i.e. speed, efficiency, and reliability) of area traffic by providing safe travel for motorists and continued connectivity between western Riverside County and the cities of San Jacinto and Hemet.

SUPPLEMENTAL:

Additional Fiscal Information

The following summarizes the funding necessary for the deposits to the State Condemnation Fund for the properties referenced above as well as due diligence costs and staff time during the condemnation process.

Right of Way Acquisition and/or Temporary Construction Access (Deposit to the State Condemnation Fund)	\$77,850
Litigation Guarantee	\$11,300
Real Property Team Staff Time (Condemnation Process)	\$40,000
Total Estimated Costs	\$129,150

All costs associated with the deposits of these properties are fully funded by Gas Tax/HUTA and these costs will be included in a separate staff report along with the authorizing Resolution of Necessity motion. These charges are estimates only and only actual amounts will be charged to the Project.

Attachments

- Vicinity Map
- Resolution No. 2023-122
- Legal Descriptions and Plat Maps


Jason Farin, Principal Management Analyst 4/27/2023

2 **Resolution No. 2023-122**

3 **Authorization to Adopt a Resolution of Necessity for the Gilman Springs**
4 **Road Widening Project in the unincorporated area of Moreno Valley, California**

5
6 **WHEREAS**, the portion of real properties that are the subject of this Notice
7 (collectively the "Subject Properties") are located in Moreno Valley area, County of
8 Riverside, State of California, are legally described and depicted on the documents
9 attached hereto as Exhibit "A" and Exhibit "B" (and incorporated herein), are referenced
10 as Project Parcel Nos. 0161-002A; 0161-004A, and 0161-004C; 0161-005A, 0161-
11 005B, and 0161-005C; 0161-006A, 0161-006B, 0161-006C and 0161-006D; 0161-
12 007A, 0161-007B, 0161-007C, 0161-007D and 0433-022A; 0161-008A, 0161-008B, and
13 0161-008D; 0161-009A; 0161-010A, 0161-010B, 0161-010C, 0161-010D, 0161-010E,
14 0161-010F, 0161-010G, 0161-010H, 0161-010I, 0161-010J, 0161-010K and 0433-
15 017A; 0161-011A, 0161-011B, 0161-011C, 0161-011D, 0161-011E, 0161-011G, 0161-
16 011H, 0161-011I, 0161-011J, 0161-011K, 0161-011L, 0161-011M, 0161-011N, 0161-
17 011O, 0161-011P, 0161-011Q, 0161-011R, 0161-011S, 0161-011T, 0161-011U, 0161-
18 011V, 0161-011X and 0310-008B; 0161-012A; 0161-013A, and 0161-013C; 0161-
19 014A, and 0161-014C; 0161-015A, 0161-015B, 0161-015C, 0161-015D, and 0161-
20 015E; 0161-016A, and 0161-016B; 0161-017A, 0161-017B, 0161-017C, 0161-017D,
21 and 0161-017E; 0161-018A, 0161-018B; 0161-019A, 0161-019B, 0161-019C, and
22 0161-019D; 0161-020A; 0161-021A, 0161-021B, 0161-021C, 0161-021D, 0161-021E,
23 0161-021F, and 0161-021G; 0161-022A, 0161-022B, and 0161-022C; 0161-023A,
24 0161-023B, 0161-023C, 0161-023D, 0161-023E, 0161-0023F, and 0161-023G;
25 0161-024A, 0161-024B, 0161-024C, 0161-024E, 0161-024F, 0161-024G, 0161-024H,
26 0161-024I, 0161-024J, 0161-024K, 0161-024L, and 0161-024M; 0161-025A, and
27 0161-025B; 0161-026A are portions of larger real properties in all cases;

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FORM APPROVED COUNTY COUNSEL
BY: BRUCE S. FORDIN 4/26/23 DATE

1 **WHEREAS**, the Subject Properties, and the corresponding Assessor's Parcel
 2 Number(s) of which they are a part, are listed in table below.

Project Parcel Nos.	Assessor's Parcel Number(s)	Property Owner(s)
0161-002A	423-240-015	Southern California Edison Company
0161-004A, 0161-004C	423-240-010	Lauda Family Limited Partnership
0161-005A, 0161-005B, 0161-005C	423-240-014	Southern California Edison Company
0161-006A, 0161-006B, 0161-006C, 0161-006D	423-240-025 and 423-240-026	GM Gabrych Family, a California limited partnership
0161-007A, 0161-007B, 0161-007C, 0161-007D, 0433-022A	425-080-050	Francisco and Rufina Ramirez
0161-008A, 0161-008B, 0161-008D	423-240-027	Western Riverside County Regional Conservation Authority
0161-009A	423-230-014	Hawk and Hawk Investment Fund LLC
0161-010A, 0161-010B, 0161-010C, 0161-010D, 0161-010E, 0161-010F, 0161-010G, 0161-010H, 0161-010I, 0161-010J, 0161-010K, 0433-017A	423-230-010; 423-240-002	State of California
0161-011A, 0161-011B, 0161-011C, 0161-011D, 0161-011E, 0161-011G, 0161-011H, 0161-0011I, 0161-011J, 0161-011K, 0161-011L, 0161-011M, 0161-011N, 0161-011O, 0161-011P, 0161-011Q, 0161-011R, 0161-011S, 0161-011T, 0161-011U, 0161-011V, 0161-011X, 0310-008B	423-190-005, 423-190-009, 423-190-030; 0423-230-002, and 423-230-005, (0310-008 series, fka 423-080-050)	State of California
0161-012A	423-190-029	Onesimo and Slivia Coronel
0161-013A, 0161-013C	423-190-015, and 423-190-018	Robert L. Bailey
0161-014A, 0161-014C	423-190-017	Dennis W. & Rosalie A. LaMont

Project Parcel Nos.	Assessor's Parcel Number(s)	Property Owner(s)
0161-015A, 0161-015B, 0161-015C, 0161-015D, 0161-015E	422-230-009, 422-230-013; 422-240-006, 422-240-013, 422-240-014, 422-240-015; 423-190-001, 423-190-004, and 423-190- 010	Highland Fairview Environmental Foundation, LLC, a Delaware limited liability company
0161-016A, 0161-016B	423-190-003	Alonso L. and Silvia Ledezma
0161-017A, 0161-017B, 0161-017C, 0161-017D, 0161-017E	423-190-001, and 422-240-014	Highland Fairview Environmental Foundation, LLC., a Delaware limited liability company
0161-018A, 0161-018B	423-180-012	Michael A. and Dina M. Van Ryn
0161-019A, 0161-019B, 0161-019C, 0161-019D	423-180-008, and 423-180-009	Gilman Springs Road, LLC, a California limited liability company
0161-020A	423-180-002	Western Riverside County Regional Conservation Authority
0161-021A, 0161-021B, 0161-021C, 0161-021D, 0161-021E, 0161-021F, 0161-021G	423-080-003, 423-080-004, 423-080-005; 423-100-015, and 423-100-016	Highland Fairview Environmental Foundation, LLC, a Delaware limited liability company.
0161-022A, 0161-022B, 0161-022C	423-180-005, and 423-180-006	State of California
0161-023A, 0161-023B, 0161-023C, 0161-023D, 0161-023E, 0161-023F, 0161-023G	423-100-017, and 423-100-019	Moreno Gilman 650, LLC
0161-024A, 0161-024B, 0161-024C, 0161-024E, 0161-024F, 0161-024G, 0161-024H, 0161-024I, 0161-024J, 0161-024K, 0161-024L, 0161-024M	423-080-014, 423-080-016, 423-080-017; and 423-100-121	Highland Fairview Environmental Foundation, LLC., a Delaware limited liability company.
0161-025A, 0161-025B	423-080-018	State of California
0161-026A	423-240-001	Gilman Springs Partners, LLC, a California Limited Liability Company

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1 **WHEREAS**, the County of Riverside is proposing to reconstruct the existing
2 roadway to a configuration that includes five-foot graded shoulders, five-foot paved
3 shoulders a 12-foot lane in each direction, and a four-foot, double-yellow striped
4 median with rumble stripes and impact-resistant channelizers in the median. The
5 project would also include passing a lane in the westbound direction. Additionally,
6 the project would replace the existing reinforced-concrete box culvert near the
7 Gilman Springs Road/Bridge Street intersection with a single-span, concrete-slab
8 bridge that would be used to create a wildlife crossing. An eight-foot-high wildlife
9 fence, three retaining walls, approximately 10 to 16 feet high and approximately 100 to
10 320 feet long, are proposed to prevent grading into an adjacent channel. (the "Project");

11 **WHEREAS**, the Project will greatly improve traffic conditions, reduce delays, and
12 provide increased capacity and congestion relief, particularly during peak hour traffic.
13 The project is expected to have minimum impact on the surrounding environment and
14 the community;

15 **WHEREAS**, permanent acquisition of right of way, along with permanent
16 and Temporary construction easements, are expected to be necessary at various
17 locations along the project;

18 **WHEREAS**, Parcels 0161-002A, 0161-004A, 0161-005A, and 0161-005C, 0161-
19 006A, and 0161-006B, 0161-007A, 0161-007B, and 0161-007C, 0433-022A, 0161-
20 008A, 0161-010A, 0161-010B, 0161-010C, 0161-010D, 0161-010E, and 0161-010F,
21 0433-017A, 0161-011A, 0161-011B, 0161-011C, 0161-011D, 0161-011E, 0161-011G,
22 0161-011H, 0161-011I, 0161-011J, 0161-011K, 0161-011L, 0161-011M, 0161-011N,
23 0161-011O, and 0161-011P, 0310-008B, 0161-013A, 0161-014A, 0161-015A, and
24 0161-015B, 0161-016A, 0161-017A, and 0161-017B, 0161-018A, 0161-019A, and 0161-
25 019B, 0161-020A, 0161-021A, 0161-021B, and 0161-021C, 0161-022A, 0161-022B,
26 and 0161-022C, 0161-023A, 0161-023B, 0161-023C, and 0161-023D, 0161-024A,
27 0161-024B, 0161-024C, 0161-024E, 0161-024F, 0161-024G, 0161-024H, and 0161-
28 024M, and 0161-025A are permanent easement interests needed for the Project;

1 **WHEREAS**, Parcels 0161-004C, 0161-005B, 0161-006C, and 0161-006D, 0161-
2 007D, 0161-008B, and 0161-008D, 0161-009A, 0161-010G, 0161-010H, 0161-010I,
3 0161-010J, and 0161-010K, 0161-011Q, 0161-011R, 0161-011S, 0161-011T, 0161-
4 011U, 0161-011V, and 0161-011X, 0161-012A, 0161-013C, 0161-014C, 0161-015C,
5 0161-015D, and 0161-015E, 0161-016B, 0161-017C, 0161-017D, and 0161-017E,
6 0161-018B, 0161-019C, and 0161-019D, 0161-021D, 0161-021E, 0161-021F, and
7 0161-021G, 0161-023E, 0161-023F and 0161-023G, 0161-024I, 0161-024J, 0161-
8 024K, and 0161-024L, 0161-025B, 0161-026A are for non-exclusive temporary
9 construction access easements, for a thirty-six (36) month period, to have access to the
10 parcels with machinery, trucks, tools and other equipment that will be necessary to
11 construct and access the Property;

12 **WHEREAS**, the interests in the Subject Properties that are the subject of this
13 notice (collectively the "Subject Property Interests") are identified below;

Project Parcel No.(s)	Permanent Easement	Temporary Construction Easement
0161-002A	X	
0161-004A	X	
0161-004C		X
0161-005A, and 0161-005C	X	
0161-005B		X
0161-006A, and 0161-006B	X	
0161-006C, and 0161-006D		X
0161-007A, 0161-007B, and 0161-007C; 0433-022A	X	
0161-007D		X
0161-008A	X	
0161-008B and 0161-008D		X
0161-009A		X
0161-010A, 0161-010B, 0161-010C, 0161-010D, 0161-010E, and 0161-010F; 0433-017A	X	
0161-010G, 0161-010H, 0161-010I, 0161- -010J, and 0161-010K		X
0161-011A, 0161-011B, 0161-011C, 0161-011D, 0161-011E, 0161-011G, 0161-011H, 0161-011I, 0161-011J, 0161- 011K, 0161-011L, 0161-011M, 0161- 011N, 0161-011O, and 0161-011P; 0310- 008B	X	

Project Parcel No.(s)	Permanent Easement	Temporary Construction Easement
0161-011Q, 0161-011R, 0161-011S, 0161-011T, 0161-011U, 0161-011V, and 0161-011X		X
0161-012A		X
0161-013A	X	
0161-013C		X
0161-014A	X	
0161-014C		X
0161-015A, 0161-015B	X	
0161-015C, 0161-015D, and 0161-015E		X
0161-016A	X	
0161-016B		X
0161-017A, 0161-017B	X	
0161-017C, 0161-017D, 0161-017E		X
0161-018A	X	
0161-018B		X
0161-019A, 0161-019B	X	
0161-019C, 0161-019D		X
0161-020A	X	
0161-021A, 0161-021B, and 0161-021C	X	
0161-021D, 0161-021E, 0161-021F, and 0161-021G		X
0161-022A, 0161-022B, and 0161-022C	X	
0161-023A, 0161-023B, 0161-023C and 0161-023D	X	
0161-023E, 0161-023F, and 0161-023G		X
0161-024A, 0161-024B, 0161-024C, 0161-024E, 0161-024F, 0161-024G, 0161-024H, and 0161-024M	X	
0161-024I, 0161-024J, 0161-024K, and 0161-024L		X
0161-025A	X	
0161-025B		X
0161-026A		X

WHEREAS, the statutes that authorize the County of Riverside to acquire the Subject Property Interests by eminent domain include Article 1, Section 19 of the California Constitution; Section 25350.5 of the Government Code; Section 760 of the Streets and Highways Code; and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.110, 1240.120, 1240.130, 1240.240, 1240.310, 1240.320, 1240.350, 1240.410, 1240.510, and 1240.610 of the Code of Civil Procedure.

///

1 Now, therefore, **BE IT RESOLVED AND ORDERED** as follows by the Board of
2 Supervisors of Riverside County, State of California, in regular session assembled on
3 April 4, 2023.

4 1. Notice of the Board's intention to adopt this Resolution of Necessity was duly
5 given as required by Section 12.45.235 of the Code of Civil Procedure and, on the date
6 and at the time and place fixed for hearing, this Board did hear and consider all of the
7 evidence presented.

8 2. That the public interest and necessity require the Project;

9 3. That the Project is planned or located in the manner that will be most compatible
10 With the greatest public good and least private injury;

11 4. That the Subject Property Interests are necessary for the Project;

12 5. That the offers required by Section 7267.2 of the Government Code have been
13 made to the owners of record of the Subject Properties;

14 6. That, to the extent that the Subject Properties are already devoted to a public use,
15 the use of the Project is a compatible use that will not unreasonably interfere with or
16 impair the continuance of the public use as it presently exists or may reasonably be
17 expected to exist in the future (California Code of Civil Procedure Section 1240.510) or
18 the use of the Project is a more necessary public use than is the presently existing public
19 use (California Code of Civil Procedure Section 1240.610);

20 7. The County of Riverside Transportation Department (County) has determined that
21 the project is subject to CEQA, therefore, an Initial Study (IS) was completed. The
22 Project was determined not to have a significant impact on the environment with the
23 inclusion of Mitigation Measures (MMs). Therefore, the County prepared a Mitigated
24 Negative Declaration (MND) in accordance with the provisions of CEQA. The Board of
25 Supervisors adopted the Final Initial Study/Mitigated Negative Declaration and approved
26 the Project on September 13, 2022;

27 8. That the acquisition of the Subject Property Interests will promote the interests of
28 the County of Riverside.

29 ///

1 **BE IT FURTHER RESOLVED AND ORDERED** that the County Counsel of the County of Riverside
2 is hereby authorized and empowered:

- 3 1. To acquire the Subject Property Interests by condemnation with the Constitution
4 and laws relating to eminent domain.
- 5 2. To prepare and prosecute in the name of the County such proceedings in the
6 proper court having jurisdiction thereof as are necessary for such acquisition.
- 7 3. To make application to the Court for an order to deposit the probable amount of
8 compensation out of proper funds under the control of the County into the
9 Condemnation Deposits Fund with the Office of the State Treasurer and to make
10 application to the County and for an order permitting the County to take pre-
11 judgement possession and use the Subject Property Interests for the purpose of
12 constructing the project.
- 13 4. To compromise and settle such proceedings if such can be reached and, in the
14 event, to take all necessary actions to complete the acquisition, including
15 stipulations as to judgement and other matters and the causing of all payments to
16 be made.
- 17 5. To correct any errors or to make or agree to non-material changes in the legal
18 description of the real property that are deemed to be necessary for the conduct
19 of the condemnation action, or other proceedings or transactions required to
20 acquire the Subject Property Interest.

21 ROLL CALL:

22 Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
23 Nays: None
24 Absent: None

25 The foregoing is certified to be a true copy of a resolution duly adopted by said Board
26 of Supervisors on the date therein set forth.

27 KIMBERLY A. RECTOR, Clerk of said Board

28 By: 
Deputy



ALVARADO
SMITH

Kevin A. Day
Partner
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714.852.6899 (f)
kday@fbtlaw.com

May 1, 2023

HAND DELIVERED

Ms. Kimberly A. Rector
Clerk to the Board of Supervisors
County Administrative Center
PO Box 147
4080 Lemon Street, 1st Floor
Riverside, CA 92502-1147

Re: **REQUEST BY SOUTHERN CALIFORNIA EDISON COMPANY TO
APPEAR AND BE HEARD ON THE MATTERS REFERRED TO IN
THE NOTICE OF INTENTION (RES. 2023-079) TO ADOPT A
RESOLUTION OF NECESSITY REGARDING THE GILMAN SPRINGS
ROAD PHASE IV PROJECT**

Dear Ms. Rector:

This firm and the undersigned represent Southern California Edison Company (“SCE”). Pursuant to *Code of Civil Procedure* §1245.235(b)(3), this letter constitutes SCE’s written objection and request to appear and be heard on the matters referred to in *Code of Civil Procedure* §1240.030 for Resolution No. 2023-079 (“Resolution”). This letter, and any additional comments presented by SCE representatives, should be included in the administrative record associated with this proposed action.

SCE objects to the adoption of the Resolution as set forth herein. The County does not have the factual, statutory or legal foundation to adopt the Resolution and should refrain from doing so. Proceeding to adopt the Resolution as it relates to SCE is an abuse of discretion and subjects the Project to being challenged and halted in its entirety.

The Resolution seeks to acquire both permanent easement and temporary construction easement rights over and across property for the Gilman Springs Road Phase IV Project designated as Assessor’s Parcel Number 423-240-014 (“Subject Property”). SCE uses the Subject Property for electrical transmission purposes as components of multiple projects, including the Devers-Valley 500 kV line, the Valley-Mayberry-Moreno-Vista 115kV line and the Steel 12kV line. The latter two electrical lines and associated components will need to be relocated and/or rerouted if the Project is approved. As it stands now, it appears the County has no specific plan or details for this rerouting, a major flaw in the attempt to condemn SCE’s facilities. This topic should have been extensively

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discussed and determined in the Resolution and related materials prior to the County's consideration of the Resolution. The lack of such material undermines any potential discretion that could have been exercised as discussed below.

As SCE uses the Subject Property for the transmission of electrical power, it is already put to a public use. *East Bay Municipal Utility District v. City of Lodi* (1932) 120 Cal.App. 740, 745. Land already appropriated for a public use is protected from further appropriation in a later eminent domain action under the doctrine of prior public use. *Id.* In order to take land with a prior public use, the condemnor must either show that its "new" public use is more necessary than or compatible with the existing public use. §§1240.510 and 1240.610. Accordingly, the Resolution must specifically refer to these sections and contain an analysis of the existing public use versus the County's intended public use.

While Section 1(e) of the Resolution references the statutes above related to an existing public use, it later contains a statement in the conjunctive that "if any portion of the Property has been appropriated to some public use..." that falls below the statutory requirement. To condemn property already put to a public use by a utility company like SCE, the County must demonstrate by carrying the burden of proof that its use is either compatible or more necessary under the *Code of Civil Procedure* §§ 1240.510, 1240.610 and 1240.650(c) analysis. The Resolution's lack of any discussion on this issue strips the County of its ability to condemn SCE's property.

Additionally, SCE also has the right to oppose the condemnation based on a failure to comply with CEQA. *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal. App.3rd 1005, 1017-1018 n.5; *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233, Cal. App. 3d 577, 588. The Resolution and notice letter are completely devoid of any mention of either compliance or an exemption from CEQA. The failure to consider and/or make considerations of the Project's environmental impacts pursuant to CEQA guidelines, §15064(d) constitutes a violation of CEQA and prevents the condemnation from going forward until compliance with CEQA is accomplished.

Nor is there a proposed separate, and prerequisite, adoption of a CEQA Notice of Exemption proposed here. The failure to first adopt a Notice of Exemption associated with the proposed "project" (with the elements of the "project" being indeterminate as previously discussed) renders the adoption of the Resolution void at the outset.

Finally, the purported offer pursuant to *Government Code* §7267.2 is deficient as to SCE. The appraisal and appraisal summary statement note that the property's highest and best use is as "continued use for an electrical transmission corridor" but contain no valuation analysis of the impact on the existing electrical facilities. The compensation afforded relates to the land value alone and contains no severance damages analysis or value for SCE's existing improvements that will have to be moved and reconstructed as part of the Project. Cal. Const., art. I, § 19; *Code of Civil Procedure* §155.010, 1255.410 & 1263.410. The lack of consideration of these issues undercuts the validity of the offer, not related to the ultimate monetary conclusion, but as to its failure to consider the required elements. *City of San Jose v. Great Oaks Water Co.* (1987) 192 CalApp.3d 1005, 1014.

For each of the reasons stated above, the County may not properly adopt the Resolution to acquire any of SCE's property. If the County moves forward, SCE intends to assert all applicable objections to the County's rights to take in any subsequent eminent domain proceeding or as otherwise

Ms. Kimberly A. Rector
May 1, 2023
Page 3

provided by law. Accordingly, SCE expressly reserves all applicable objections to the right to take which it may assert in any subsequent eminent domain proceeding or as otherwise provided by la

Very truly yours,



Kevin A. Day

KAD:VD

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