



Legislation Text

File #: 18-0902, **Version:** 1

Community Development Services, Department of Transportation, recommending the Board approve and authorize the Chair to sign Consent to Common Use Agreement between the County and Pacific Gas and Electric Company, recognizing the prior easement and rights of Pacific Gas and Electric Company to a portion of County-owned APN 076-133-17.

FUNDING: N/A

DEPARTMENT RECOMMENDATION

Community Development Services, Department of Transportation (Transportation), recommending the Board approve and authorize the Chair to sign Consent to Common Use Agreement (Agreement) between the County and Pacific Gas and Electric Company (PG&E), recognizing the prior easement and rights of PG&E to a portion of County-owned APN 076-133-17.

DISCUSSION / BACKGROUND

The Alder Drive at EID Canal Bridge Replacement Project CIP number 77123 (Project) consisted of replacement of the bridge with culverts at the EID canal crossing and widening and minor realignment of the bridge approaches. The Project required the County to obtain easements and parcels in fee. To date, all easements and parcels have been acquired. Resolution of Necessity 135-2015, to acquire APN 076-133-17 (Parcel), was adopted and authorized by the Board on August 11, 2015 (Item 32).

Construction of the Project has been completed. The Board Chair signed the Notice of Acceptance for the Project on January 10, 2017 (Item 19).

Subsequent to the completion of the project, PG&E notified the County that there was an overlap in land rights on the Parcel. Portions of the project, including sections of Alder Drive, Pony Express Trail, the Alder Drive at EID Canal Bridge, and an area of the culvert placement, were performed in an existing easement on the Parcel which was granted to PG&E in 1936. In order for PG&E to protect its superior land rights in perpetuity on the Parcel, Agreement must be executed between PG&E and the County. In the Agreement, PG&E and County will mutually agree:

- 1) PG&E consents to County's construction, reconstruction, maintenance or use over, along and upon PG&E's easement in the Area of Common Use;
- 2) County acknowledges PG&E's title to PG&E's easement in Area of Common Use;
- 3) County will notify PG&E in writing of any future rearrangement, relocation, reconstruction or removal of any PG&E facilities in Area of Common Use, and reimburse PG&E for any costs incurred in complying with notice;
- 4) Agreement shall not alter, modify or terminate any provision of PG&E's easement or priority over County's title in Area of Common Use; and
- 5) Agreement shall be binding upon the successors and assigns of PG&E and County.

ALTERNATIVES

If the Consent to Common Use Agreement is not signed there could be future disputes or lawsuits

between PG&E and the County if the interest in PG&E's prior easement is questioned.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION

It is recommended that the Board approve this item.

FINANCIAL IMPACT

There is no funding or cost associated with executing the Consent to Common Use Agreement. The Alder Drive at EID Canal Bridge Replacement Project CIP No. 77123 was funded by the Highway Bridge Program (96.3%), RSTP Exchange Funds-Caltrans (3.4%), and RSTP Exchange Funds-Rural-EDCTC (.3%).

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will obtain the Chair's signature on two (2) originals of the Consent to Common Use Agreement.
- 2) The Clerk of the Board will return one (1) fully executed original of the Consent to Common Use Agreement to Transportation, to the attention of Jackie Cook.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

Rafael Martinez, Director
Community Development Services, Department of Transportation