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**Title:** Public Hearing: Action on a Resolution of Necessity to Acquire Certain Real Property Interests on 999 Martin Avenue, Santa Clara, California, from Pollack Enterprises, Inc.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. May 6, 2020 Offer Letter, 2. Resolution of Necessity, 3. POST MEETING MATERIAL, 4. Resolution No. 21-9014

Date	Ver.	Action By	Action	Result
10/19/2021	1	City Council and Authorities Concurrent	Adopted	Pass

**REPORT TO COUNCIL**

**SUBJECT**

Public Hearing: Action on a Resolution of Necessity to Acquire Certain Real Property Interests on 999 Martin Avenue, Santa Clara, California, from Pollack Enterprises, Inc.

**COUNCIL PILLAR**

Deliver and Enhance High Quality Efficient Services and Infrastructure

**BACKGROUND**

The City of Santa Clara’s Electric Utility, Silicon Valley Power (SVP), is proposing to construct approximately 3.5 miles of new single and double circuit 60 kilovolt (kV) overhead transmission line within the northeastern area of the City of Santa Clara. SVP’s primary objective of the South Loop Reconfigure Project (Project) is to shift the electrical load demand that is currently being seen on the South Loop Circuit to the East Loop Circuit to increase system capacity and reliability.

The majority of the new 60 kV transmission line would be constructed along the following city streets in areas where existing power lines do not currently exist: Lafayette Street, Mathew Street, Martin Avenue, and De La Cruz Boulevard. The remaining segments of the Project would be along routes that have existing distribution power lines and/or telecommunication lines.

The City Council has previously taken a number of actions on the project:

- June 16, 2015 - Adopted the FY 2015/16 Capital Improvement Program (CIP) Budget which included the initial funding for the engineering for this 60kV reconductoring and upgrading project.
- July 12, 2016 - Approved a professional services agreement with Electrical Consultants, Inc. to provide transmission line engineering design services which included reconfiguring the south

transmission loop.

- January 14, 2020 - Amended a service agreement with Valbridge Property Advisors to perform appraisal services as part of the easement acquisition for the Project.
- July 7, 2020 - Adopted the Negative Declaration and Mitigation, Monitoring and Reporting Program for the Project and increased the capital funding of the Transmission System Reinforcements Capital Improvement Program Project (No. 2124) by \$6,300,000.
- October 13, 2020 - Approved three Purchase and Sale Agreements for Electric Utility Easements.
- November 10, 2020 - Approved two Purchase and Sale Agreements for Electric Utility Easements.
- November 17, 2020 - Approved four Purchase and Sale Agreements for Electric Utility Easements.
- November 17, 2020 - Adopted three Resolutions of Necessity to Acquire Certain Real Property Interests and Directed the Filing of Eminent Domain Proceedings.
- December 16, 2020 - Approved one Purchase and Sale Agreement for Electric Utility Easement.
- February 9, 2021 - Approved two Purchase and Sale Agreements for Electric Utility Easements.
- March 9, 2021 - Adopted two Resolutions of Necessity to Acquire Certain Real Property Interests and Directed the Filing of Eminent Domain Proceedings.
- April 6, 2021- Approved six Purchase and Sale Agreements for Electric Utility Easements.
- June 22, 2021- Adopted one Resolutions of Necessity to Acquire Certain Real Property Interests and Directed the Filing of Eminent Domain Proceedings.
- August 24, 2021- Adopted one Resolutions of Necessity to Acquire Certain Real Property Interests and Directed the Filing of Eminent Domain Proceedings.
- September 28, 2021 - Approved one Purchase and Sale Agreements for Electric Utility Easements.

## **DISCUSSION**

The adoption of the attached Resolution of Necessity requires the City to consider and make the following findings:

- The public interest and necessity require the Project.
- The Project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury.
- The property sought to be acquired is necessary for the Project.
- The offer required by Section 7267.2 of the Government Code has been made to the Owner of record for the full amount established as the fair market value of the property.

### ***The public interest and necessity require the Project.***

The project is critical to maintain reliability of the power system in Santa Clara. SVP maintains a redundant system on its 60kV network, allowing for the loss of a single line without interrupting power delivery and cause outages. This Project ensures that this ability remains as the electrical demand in Santa Clara grows. The project is also necessary for future development in the area.

### ***The Project is planned or located in the manner that will be the most compatible with the***

***greatest public good and the least private injury.***

SVP identified a study area that considered criteria necessary to meet the Project objectives, e.g., maintain system reliability while allowing for an increase in electrical demand. Staff engineers and design consultants looked for route alternatives, focusing on locations that paralleled existing roads and/or existing overhead utilities, and our own existing transmission corridors. In places where we could not use our existing transmission corridors or did not have an existing transmission corridor, staff considered route alternatives looking at their potential impacts to the environment, existing and probable future development, the topography/terrain, roadway access, scenic areas, and recreation uses, among other factors. Weighing the above considerations with the technical needs for the project, the final Transmission route was determined.

***The property sought to be acquired is necessary for the Project.***

The Electric Overhead Easement on 999 Martin Avenue is necessary to achieve the technical needs of the project.

***The offer required by Section 7267.2 of the Government Code has been made to the Owner of record for the full amount established as the fair market value of the property.***

On May 6, 2020, the City made an offer to Pollack Enterprises, Inc to acquire the Electric Overhead Easement upon the value determined by an independent state licensed and certified appraiser in accordance with the above referenced Government Code.

The Resolution of Necessity requires approval by a two-thirds vote of the Council. If the Council adopts the recommended Resolution of Necessity, the City would deposit the necessary funds for the Easement's probable compensation with the State Condemnation Deposit Fund and file an eminent domain complaint with the Court to seek possession of the property.

As always, the parties can continue to negotiate in an effort to come to a mutual agreement on compensation for the leasehold (including any compensation due for furniture, fixtures, and equipment) and loss of business goodwill.

**ENVIRONMENTAL REVIEW**

This project was analyzed in accordance with the requirements of the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration (MND) [SCH#2020-05-9009] was prepared for the project by the environmental consultant firm, Aspen Environmental Group, and adopted by Council on July 7, 2020 by Resolution No. 20-8869.

**FISCAL IMPACT**

The South Loop reconfiguration cost was approved as part of the Adopted FY 2020/21 and FY 2021/22 Biennial Capital Improvement Program in the Transmission System Reinforcement CIP Project. This action has no fiscal impact to the General Fund as the Project is funded by developer contributions and customer service charges.

**COORDINATION**

This report has been coordinated with the Finance Department and the City Attorney's Office.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

### **ALTERNATIVES**

1. Adopt a Resolution of Necessity to Acquire Certain Real Property Interests.
2. Do not adopt a Resolution of Necessity.

### **RECOMMENDATION**

Alternative 1: Adopt a Resolution of Necessity to Acquire Certain Real Property Interests on 999 Martin Avenue, Santa Clara, California, from Pollack Enterprises, Inc. **(Five affirmative votes required [California Code of Civil Procedure section 1245.245]).**

Reviewed by: Manuel Pineda, Chief Electric Utility Officer  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. May 6, 2020 Offer Letter
2. Resolution of Necessity