



Agenda Item Number: 2009-6-9E

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: June 9, 2009

Department: Technical Services
IP&GR

Staff Contact: Tom Zdunek, DCM for Public Works
Roger Paul, Director, Technical Services
Steve Miller, Director, IP&GR
Ray Orona, Right of Way Manager

TITLE: Acquisition of Property for the Southwest Valley Flood Reduction Project

ACTION: Motion to Approve the Taking of Property by Eminent Domain from Tobacco Farm, LLC a New Mexico Limited Liability Company by Condemnation or Settlement Action, for required Right of Way

SUMMARY:

The Southwest Valley Flood Reduction Project consists of widening the Isleta Drain and the Los Padillas Drain, and is intended to reduce flooding in the area by conveying stormwater runoff to the Rio Grande River. This project will also provide a connection between the Isleta and the Los Padillas Drains. The property required for the project consists of approximately 15 acres, which will be used for the construction of an earthen channel that will convey the area drainage flows. There are no existing improvements or relocations required in connection with this taking.

The property owner has refused to grant the County entry rights to begin the construction. Therefore, the County must proceed with a "quick take" action to assure that the project's deadline of December, 2009 will be met. The County's estimated value of the just compensation for this taking is \$374,250. The Right of Way Section and the Real Estate Committee have duly considered the necessity for exercising the County's power of eminent domain, and recommend that the County proceed. The estimated values of the right-of-way parcels are as follows:

TR3-A-1 Unencumbered Land: 3.8079 Acres @\$40,000 Acre =	\$152,316	
TR3-A-1 Encumbered Land: 5.3661 Acres @ \$ 8,000 Acre =	\$ 42,929	
Subtotal.....		\$195,245

TRA Unencumbered Land: 3.6613 Acres @\$40,000 Acre =	\$146,452	
TRA Encumbered Land: 1.6218 Acres @\$20,000 Acre =	\$ 32,436	
Subtotal.....		\$178,888
TOTAL ESTIMATED COMPENSATION	\$374,133 rounded	\$374,250

The Southwest Valley Flood Reduction Project will be funded with 65% federal funds and 35% local government participation for which Bernalillo County is contributing 17.5% of the project costs and AMAFCA is contributing 17.5%. The project total costs are projected at

approximately \$24,800,000, and the costs include construction, right-of-way acquisition, and design. This year, the more critical portions of the South Valley Flood Reduction Project will be put out to bid with the \$7,000,000 of funding that is currently available, and this first bid phase will include the Los Padillas Extension which is the subject of the proposed condemnation action.

ATTACHMENTS:

- 1) Parcel Descriptions
- 2) Zone Atlas page
- 3) Project Map
- 4) Real Estate Committee Condemnation Approval

FISCAL IMPACT

STAFF ANALYSIS SUMMARY

COUNTY MANAGER

The property owner has refused County access and this parcel is critical for this project. I recommend the Board approve the condemnation action thus allowing staff to proceed. TL 6/2/09

DEPUTY COUNTY MANAGER

The action request has become critical in our effort to not jeopardize construction improvements to the drainage project that supports many residents of the South Valley and to continue this project in a timely manner. I recommend approval. TZ 6/1/2009

LEGAL

The 15 acres at issue are crucial to the overall irrigation project, which involves federal and state agencies. The property owners are not willing or able to negotiate a voluntary transfer because they are in litigation over ownership of a different section of the same parcel. A “quick take” condemnation action is necessary to secure entry to the property and begin construction as soon as possible, so approval of this agenda item is recommended. PSA 6/1/09

FINANCE

Budget

Approval would allow purchase of Property from Tobacco Farm, LLC by Condemnation or Settlement Action for the required Right of Way. Funding is available in 13001 - TS.2004.SVFLOD.01 - 586045. Stephanie Manzanares, Financial Services Administrator II, 06/01/09.

Purchasing

Procurement is exempt from the Code. Phillip Lee, Purchasing Administrator, 05-29-2009.

Contracts **Contract Control Number (CCN) 2009-0341 issued contingent upon Commission approval. Phillip Lee, Purchasing Administrator, 05-29-2009.**

Risk Management **No comment required. Debbie L. Blea for David Baca.**
6/1/09