



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: A 20-006, **Version:** 1

- a. Approve an Agreement for Grant of Easement in Real Property between the County of Monterey and Dynegy Moss Landing, LLC for the Monterey Bay Sanctuary Scenic Trail - Moss Landing Segment, Project No. 8668, accept the Amended and Restated Public Access Easement Deed and Declaration of Restrictions, and approve the Right of Entry License
- b. Approve an Agreement for Grant of Easement in Real Property between the County of Monterey and Moss Landing Harbor District for the Monterey Bay Sanctuary Scenic Trail - Moss Landing Segment, Project No. 8668, and accept Easement Deed; and
- c. Authorize the Resource Management Agency Director to execute the agreements for Grant of Easement in Real Property for the Monterey Bay Sanctuary Trail Project, the Easement Deeds, Amended and Restated Public Access Easement Deed and Declaration of Restrictions and the respective Certificate of Acceptance and Consent to Recordation of said Easement Deed on behalf of the County, and the Right of Entry License.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve an Agreement for Grant of Easement in Real Property between the County of Monterey and Dynegy Moss Landing, LLC for the Monterey Bay Sanctuary Scenic Trail - Moss Landing Segment, Project No. 8668, accept the Amended and Restated Public Access Easement Deed and Declaration of Restrictions, and approve the Right of Entry License
- b. Approve an Agreement for Grant of Easement in Real Property between the County of Monterey and Moss Landing Harbor District for the Monterey Bay Sanctuary Scenic Trail - Moss Landing Segment, Project No. 8668, and accept Easement Deed; and
- c. Authorize the Resource Management Agency Director to execute the agreements for Grant of Easement in Real Property for the Monterey Bay Sanctuary Trail Project, the Easement Deeds, Amended and Restated Public Access Easement Deed and Declaration of Restrictions and the respective Certificate of Acceptance and Consent to Recordation of said Easement Deed on behalf of the County, and the Right of Entry License.

SUMMARY/DISCUSSION:

Approval of the "Agreement for Grant of Easement in Real Property" between the County of Monterey and Dynegy Moss Landing, LLC and the "Agreement for Grant of Easement in Real Property" between the County of Monterey and the Moss Landing Harbor District, both for the Monterey Bay Sanctuary Scenic Trail - Moss Landing Segment, Project No. 8668 (sometimes referred to as "Project" or "trail"), and the acceptance and recording of the corresponding Easement Deeds, and the "Amended and Restated Public Access Easement Deed and Declaration of Restrictions" between the County and Dynegy Moss Landing, LLC will facilitate the acquisition of two (2) easements that are necessary for the right-of-way needed to complete the Project. Dynegy's grant of easement and Moss Landing Harbor District's grant of easement are at no cost to the County.

This Project is a segment of the greater Monterey Bay Sanctuary Scenic Master Plan, dated July 2007. This Master Plan was developed by the Transportation Agency for Monterey County (TAMC) in collaboration with public agencies, nonprofit organizations and the public to construct a trail to allow people to bicycle around Monterey Bay from Lovers Point Park in Pacific Grove to Wilder Ranch State Park on the coast, north of Santa Cruz in Santa Cruz County. The primary purpose of the trail is to enhance appreciation and protection of the Monterey Bay National Marine Sanctuary by promoting public use and enjoyment at its shoreline. At the

request of TAMC, the County agreed to be the Project sponsor responsible for designing, constructing, and managing the Project since the Moss Landing Segment is located in unincorporated Monterey County.

The proposed Monterey Bay Sanctuary Scenic Trail - Moss Landing Segment Project includes the construction of a bicycle/pedestrian path along the west side of State Route 1, from Moss Landing Road to the north side of Elkhorn Slough, near the community of Moss Landing. The path is approximately 0.86- miles long and includes the construction of a twelve (12) foot wide bridge, approximately 386 feet long over Elkhorn Slough.

Two (2) properties which are owned by Dynegy Moss Landing LLC, and the Moss Landing Harbor District are impacted by the Project; therefore, public access easements are required for the County to proceed with the Project. Dynegy Moss Landing LLC is to grant a public access easement for a trail as conditioned in their Combined Development Permit (Board of Supervisors Resolution No. 00037 adopted on June 28, 2000, Permit No. PLN 990233.

The proposed “Amended and Restated Public Access Easement Deed and Declaration of Restrictions” will supersede a prior “Easement Agreement” which was recorded with the County Recorder as Document No. 2001016144 on March 3, 2001 pursuant to Condition No. 23. The proposed “Amended and Restated Public Access Easement Deed and Declaration of Restrictions” between the County and Dynegy and corresponding easement from Dynegy Moss Landing LLC to the County is required in order to change the location of an existing easement to meet current Project specifications.

The proposed Moss Landing Harbor District easement is approximately 1,808 square feet (0.04 of an acre), located on the west side of State Route 1, just south of the Caltrans bridge over Elkhorn Slough.

The proposed Dynegy Moss Landing easement is approximately 23,769 square feet (0.55 of an acre) and is generally 11 feet wide (about half of a mile long). The proposed easement runs along the west side of State Route 1, beginning near Dolan Road and ending just south of the Caltrans bridge over Elkhorn Slough.

Dynegy has entered into an agreement with Deepwater Desal, LLC which includes certain rights to pipes for seawater intake/outtake located within the easement to be granted to the County. As part of the County’s agreement with Dynegy, Deepwater Desal will reserve and maintain rights to these pipes and will be protected in place during construction of the scenic trail.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved the “Agreement for Grant of Easement”, and related “Easement Deed”, the “Amended and Restated Public Access Easement Deed and Declaration of Restrictions” and the proposed “Right of Entry License” form/template between the County and Dynegy Moss Landing, LLC as to form.

In addition, the Office of the County Counsel has reviewed and approved the “Agreement for Grant of Easement in Real Property” and related “Easement Deed” between the County and the Moss Landing Harbor District.

FINANCING:

The total estimated Project cost, including engineering design, environmental, right-of-way, utilities and construction is \$13.8 million.

The Project is funded by various Federal, State and local grant funding sources which include the following;

Safe, Accountable, Flexible, Efficient and Transportation Equity: A Legacy for Users (SAFETEA-LU), Highway Users Tax Account (HUTA), 2% Transportation Development Act (TDA), Active Transportation Program (ATP), a Coastal Conservancy Grant, and Measure X. Staff plans to apply for a grant to reimburse the Measure X expense.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

These easements will provide the necessary right-of-way for the Project which is needed to construct a sustainable, physical infrastructure that improves the quality of life for County residents and visitors. The recommended action supports the following Board of Supervisors' Strategic Initiatives as indicated below:

___ Economic Development
___ Administration
___ Health & Human Services
X Infrastructure
X Public Safety

Prepared by: Jonathan L. Pascua, P.E., Senior Civil Engineer, (831) 755-8963

Reviewed by: Randell Ishii, M.S., P.E., Chief of Public Works

Approved by: Carl P. Holm, AICP, RMA Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Dynegy Agreement

Attachment B - Harbor District Agreement

Attachment C - Project Budget

Attachment D - Location Map