



CITY COUNCIL AGENDA STATEMENT



November 19, 2019

File ID: 19-0512

TITLE

RESOLUTION OF NECESSITY OF THE CITY OF CHULA VISTA TO ACQUIRE CERTAIN REAL PROPERTY OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN FOR E STREET EXTENSION AND TEMPORARY ACCESS FOR CONSTRUCTION OF ROAD AND WALL (4/5 VOTE REQUIRED)

RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolution.

SUMMARY

This item asks City Council to approve the City's acquisition by eminent domain of an easement for street and public utilities necessary for the construction of the E Street Extension and temporary easements for access to the Discovery Center during construction and construction of a retaining wall, all of which are necessary for the construction of the Chula Vista Bayfront Project. These easements are located west of Bay Boulevard, north and south of E Street.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project was adequately covered in previously certified Final Environmental Impact Report UPD#83356-EIR-658/SCH#2005081077 for the Chula Vista Bayfront Master Plan. Thus, no additional environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The project that is the subject of this action is the first phase of the much larger 535 acre 1.4 billion dollar Chula Vista Bayfront Project. In order for the rest of the bayfront to be developed the existing RV Park must be relocated, the extension of E Street to serve the new location must be constructed. This construction requires the acquisition of real property interest (easements) from SDG & E, the owner of the lands affected. The easements required are an easement for street and public utilities to construct, operate and maintain the E Street extension, as well as temporary easements needed for the construction of a retaining wall and for a temporary access road to the Discovery Center.

The City, working with the Port of San Diego, had the necessary rights appraised and an offer has been made to SDG&E for their purchase. SDG&E has no objections to the project or these acquisitions but, due to regulatory constraints, they are unable at a local level to settle this matter prior to the City adopting this Resolution. Once this resolution is adopted, they can conclude negotiations and sell the needed easements.

At this time, staff is recommending that Council approve this Resolution of Necessity so that the

formal eminent domain acquisition process can begin. Negotiations with the property owner will continue, but this action will ensure that the City can acquire the property in a timely manner so that construction can proceed.

In order to adopt this Resolution Council must make the following findings:

- (a) The public interest and necessity require the proposed Project;
- (b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property interests described in Exhibits "A" and "B" and as further described and limited in this resolution of necessity, are necessary for the proposed Project;
- (d) The proposed public use of the property interests to be acquired will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future as provided in section 1240.510 of the California Code of Civil Procedure;
- (e) The offer required by section 7267.2 of the California Government Code was made to the owner or owners of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence; and
- (f) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City of Chula Vista.

Purchase price and valuation are not a part of this Resolution and are not to be considered in this action.

City staff have been negotiating voluntary easement agreements with SDG&E regarding the proposed easements that are the subject of this action. As a part of this action, City staff recommends that the City Council grant authority to City Manager, or designee, to continue voluntary negotiations with SDG&E, in lieu of an immediate filing of an eminent domain action, to try and agree to final terms and conditions for such easements.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Councilmembers and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, et seq.).

Staff is not independently aware and has not been informed by any Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

The appraised value of the parcels being considered for acquisition by eminent domain is \$77,400.00. The funds for the acquisition of the E street extension will be funded by the City's General Fund. No appropriations are needed as funding is included in the fiscal year 2019-20 General Fund budget for the Bayfront project. Funding for temporary construction easements will be funded by the Port of San Diego.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact created by the acquisition as it is a one-time expenditure. Construction of the RV park is being done by Sun Communities. Any future maintenance expenditures for E Street are included in the overall Bayfront Master Plan financing.

ATTACHMENTS

1. Exhibit "A" Legal Descriptions
2. Exhibit "B" Plats

Staff Contact: Rick Ryals, Real Property Manager