



RIVERSIDE PUBLIC UTILITIES

Board Memorandum

BOARD OF PUBLIC UTILITIES

DATE: JANUARY 9, 2017

ITEM NO: 5

SUBJECT: **AGREEMENT FOR CONVEYANCE OF EASEMENT WITH 7509 ARLINGTON AVENUE TRUST AND FAMILY TRUST OF HEINZ F. ZWINGLER AND BETTY LEE ZWINGLER LOCATED AT 7509 ARLINGTON AVENUE, RIVERSIDE, CALIFORNIA, ASSESSOR'S PARCEL NUMBER 155-290-017 FOR THE RIVERSIDE TRANSMISSION RELIABILITY PROJECT – WORK ORDER 642975 FOR \$163,093**

ISSUES:

Recommend that the City Council approve the Agreement for Conveyance of Easement with 7509 Arlington Avenue Trust and Family Trust of Heinz F. Zwingler and Betty Lee Zwingler; and that the Board of Public Utilities approve the not to exceed expenditure of \$163,093 for the acquisition of the subject easement located at 7509 Arlington Avenue, Riverside, California, Assessor's Parcel Number 155-290-017.

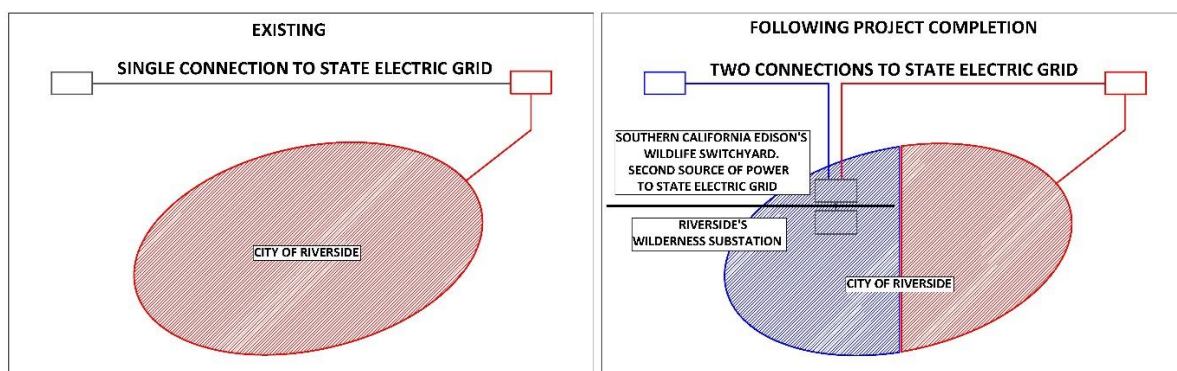
RECOMMENDATIONS:

That the Board of Public Utilities:

1. Recommend that the City Council approve the Agreement for Conveyance of Easement with the property owner, 7509 Arlington Avenue Trust and Family Trust of Heinz F. Zwingler and Betty Lee Zwingler for the acquisition of an easement on a portion of 7509 Arlington Avenue, Assessor's Parcel Number 155-290-017 for the purchase price of \$163,093; and
2. Approve the expenditure of \$163,093 inclusive of the \$160,093 purchase price and an estimated amount of \$3,000 for due diligence, title, escrow fees, and related closing costs.

BACKGROUND:

In January 2006, the Board of Public Utilities (Board) approved the largest capital project in the City of Riverside's history, the Riverside Transmission Reliability Project (RTRP); and on February 5, 2013, the City Council certified the Final Environmental Impact Report for RTRP. RTRP is a joint project with Southern California Edison (SCE) to provide Riverside Public Utilities (RPU) a second connection to the state electric transmission grid addressing long-term capacity and reliability needs of the City.



SCE's portion of RTRP includes construction of the 230kV transmission lines and a 230kV switchyard. RPU's portion includes construction of a new substation, improvements to existing substations, construction of new 69kV sub-transmission lines, relocation of existing distribution lines, and installation of new telecommunication lines. The total authorized funds for RTRP Work Order No. 642975 is currently \$42,605,521 as approved by the Board at its October 17, 2014 meeting. As of October 31, 2016, the total expenditures including encumbrances for Work Order No. 642975 are \$24,603,946.

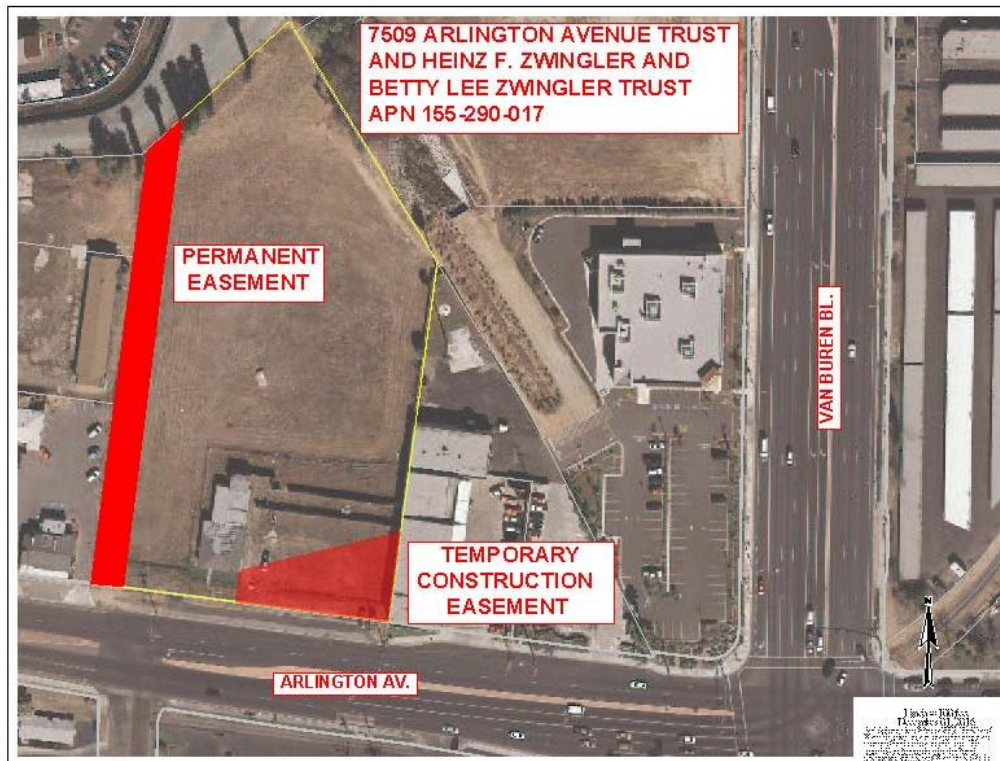
RTRP is comprised of multiple work segments. This segment of work includes construction of 13 circuit miles of 69kV transmission lines connecting Riverside Energy Resource Center (RERC) to Harvey Lynn and Freeman Substations. Most of the easements required to construct the lines have been acquired.

On August 8, 2016, the Board unanimously recommended that City Council adopt Resolutions of Necessity authorizing the initiation of eminent domain proceedings to acquire the remaining necessary real property interests for RTRP. And, on September 13, 2016, City Council adopted the Resolutions. Negotiations with the property owners are ongoing and will continue throughout this process.

DISCUSSION:

RPU staff has been coordinating the easement acquisition process for RTRP with the City of Riverside's Real Property Services Division of the Community Development Department and the City Attorney's Office. Easements valued less than \$50,000 are approved administratively through Real Property Services. Board and City Council approvals are required for purchases of \$50,000 or greater.

The City Attorney's Office, Real Property Services Division of the Community & Economic Development Department for the City of Riverside, and RPU completed final negotiations for the acquisition of the subject easement located at 7509 Arlington Avenue and are now requesting approval to purchase the easement.



Subject Easement

The Property is improved with a single family residence of approximately 2,831 square feet situated on approximately 152,896 square feet of land; of which 15,280 square feet is needed for a permanent easement and 9,516 square feet is needed for a temporary construction easement. The Property is located within the Commercial Retail zone and the General Plan designation is Commercial and Office.

Two statutory purchase offers were made to the owner of record, the Family Trust of Heinz F. Zwingler and Betty Lee Zwingler between November 2014 and December 2015. The basis for the purchase offers for the easements were appraisals of fair market value completed by two separate independent third party appraisal firms in the amounts of \$117,000 prepared by Integra Realty Resources dated January 17, 2014 (IRR) and \$91,700 prepared by R.P. Laurain & Associates dated September 13, 2015 (Laurain).

The IRR appraisal concluded to a land value of \$8.00 per square foot with a 65% diminution in value, site improvements of \$36,753 and no severance damages, totaling \$117,000. The sales comparables used in the IRR appraisal ranged from a low of \$4.48 per square foot to a high of \$12.99 per square foot. The property owner retained K. Erick Friess from the law firm of Allen Matkins Leck Gamble Mallory & Natsis, LLP to represent him. Mr. Friess thought the City's purchase offer was low since it did not include any severance damages. Since the appraisal was old, Mr. Friess suggested that the City obtain a new appraisal from a different appraisal firm.

Subsequently, the City obtained a new appraisal from R.P. Laurain & Associates. The Laurain appraisal concluded to a land value of \$9.00 per square foot with a 50% diminution in value, site improvements of \$21,807, no severance damages and a temporary construction easement for up to 60 days valued at \$1,100, totaling \$91,700. The sales comparables used in the Laurain appraisal ranged from a low of \$7.69 per square foot to a high of \$12.65 per square foot.

The property owner submitted a settlement offer to the City in the amount of \$160,093 in which he accepted the City's site improvements from the IRR appraisal in the amount of \$36,753, the temporary construction easement from the Laurain appraisal in the amount of \$1,100 and proposed a land value of \$122,240 which is the equivalent of \$12.31 per square foot with a 65% diminution in value and no severance damages. Since this price per square foot is within the range of sales comparables supported by both of the City's appraisals and these appraisals are old, staff believes the proposed settlement amount of \$160,093 represents the current fair market value for the easements and site improvements as depicted in red on the site map above.

Furthermore, it avoids the risk of litigating the case and the potential for a higher settlement if severance damages are concluded by the property owners' appraisal. The City has already received an appraisal from Wells Fargo for another easement that is required for the RTRP which concluded to severance damages in the amount of \$257,000 in addition to the land and site improvement values. Settlement now will avoid costly litigation costs and the uncertainty of a final trial outcome associated with the filing of an eminent domain complaint in court.

FISCAL IMPACT:

The total cost of the subject easement is \$163,093 inclusive of the \$160,093 purchase price and an estimated amount of \$3,000 for due diligence, title, escrow fees, and related closing costs. Sufficient funds are available in Public Utilities' Electrical Capital Account No. 6130000-470685.

Prepared by: George R. Hanson, Utilities Assistant General Manager/Energy Delivery
Approved by: Girish Balachandran, Utilities General Manager
Approved by: John A. Russo, City Manager
Approved as to form: Gary G. Geuss, City Attorney

Certifies availability of funds: Laura Chavez-Nomura, Utilities Assistant General Manager/Finance

Attachment: Agreement for Conveyance of Easement, 7509 Arlington Avenue Trust and Family Trust of Heinz F. Zwingler and Betty Lee Zwingler

