



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JULY 14, 2015

FROM: COMMUNITY & ECONOMIC DEVELOPMENT WARDS: 2 AND 3
DEPARTMENT

SUBJECT: APPROVAL OF AN AGREEMENT FOR THE CONVEYANCE OF EASEMENTS
WITH VICTORIA CLUB FOR THE TEQUESQUITE ARROYO TRUNK SEWER
REPLACEMENT (PHASE 2B) PROJECT IN THE AMOUNT OF \$1,265,000

ISSUES:

The issue for City Council consideration is approval of an Agreement for Conveyance of Easements for the acquisition of easements over a portion of 2521 Arroyo Drive bearing Assessor Parcel Numbers (APNS) 219-210-002, 221-280-001, 221-280-002, 221-300-006, 221-300-008, and 223-110-026 (Property Site Map - Attachment 1) for \$1,250,000 plus \$15,000 for related costs for the Tequesquite Arroyo Trunk Sewer Replacement Phase 2B Project.

RECOMMENDATIONS:

That the City Council:

1. Approve the Agreement for Conveyance of Easements with Victoria Club (Agreement - Attachment 2) for the acquisition of easements and cost to manage and construct golf course improvements over a portion of 2521 Arroyo Drive, APNS 219-210-002, 221-280-001, 221-280-002, 221-300-006, 221-300-008, and 223-110-026, for the purchase price of \$1,250,000, plus a \$750 per day penalty should the duration of the temporary construction easements exceed 13 months and \$5,000 per additional tree damaged; and
2. Authorize the City Manager, or his designee, to execute the Agreement, including making minor, non-substantive changes, to sign all documents and instruments necessary to complete this transaction, and to expend up to \$15,000 for title, escrow and related closing costs.

BACKGROUND:

On October 6, 2009, the City Council approved Case EPW-09-002, an Initial Environmental Study prepared for the Project in compliance with the California Environmental Quality Act (CEQA) and adopted a Mitigated Negative Declaration for the Tequesquite Arroyo Trunk Sewer Replacement Project (Project). The proposed Project replaces approximately 4.4 miles of aging sewer lines installed between the 1940's and 1960's as well as increases capacity to meet projected growth. The Project is divided into two phases and generally runs from the westerly end of Tequesquite Avenue to Palm Avenue continuing through Riverside Community College and under the 91 Freeway east to Andulka Park off Chicago Avenue. The first phase of the

Project west of the 91 Freeway is constructed. A portion in the second phase east of the 91 Freeway was also completed over one property to meet the State Route 91 Freeway Widening Project construction schedule.

The Victoria Club (Club) is a private member-owned golf club situated on approximately 111.51 acres in the Tequesquite Arroyo from the Victoria Avenue Bridge east to Andulka Park. Club improvements consist of a championship 18-hole golf course, driving range, clubhouse, tennis courts, swimming pool, exercise room, fountains, landscaping, and ancillary buildings. The existing sewer pipeline through the Club closely follows the Tequesquite Arroyo stream channel and in order to avoid potential environmental concerns, the proposed new sewer pipeline alignment will be moved to the northerly boundary of the Property. The Project requires 122,770 square feet of permanent sanitary sewer facility easements and 267,769 square feet of temporary construction easements.

On March 17, 2015, the City Council approved the adoption of Resolution No. 22822 authorizing proceedings in Eminent Domain to acquire the easements from the Victoria Club. Over the past several months, the City, in conjunction with Club members and staff, worked together to mitigate the impact of the new sewer pipeline. The City plans to utilize both open and trenchless excavation to install the new pipeline; however, the Project will impact certain golf course improvements such as putting greens, tee areas, irrigation, cart paths, turf, trees, and landscaping. During these negotiations, it was mutually agreed that the Club assume responsibility for all work necessary to reconfigure as well as repair the impacted golf course improvements and a scope of work and subsequent cost estimate was developed to cover the Club's expenses.

The easements and cost for the Club to manage and construct golf course improvements impacted by the Project was appraised for \$1,013,700 as of September 2014. The proposed settlement agreement also includes compensation to the Club for loss of green and golf cart fees, dining and beverage sales; tournament, sponsored events, and party revenue; and new memberships during construction that were not included in the appraisal. The construction of the entire Project is anticipated to take 18 months and the City estimates the work on the Club can be completed in 13 months. In order to alleviate further potential financial losses, the City proposes to pay the Club a \$750 per day penalty for the use of the temporary construction easements should the work on the Club exceed 13 months. The original scope of work and cost estimate identified the loss of eight (8) trees and the City has agreed to pay \$5,000 per tree to the Club for any additional trees damaged as a result of construction of the Project.

The proposed Agreement in the amount of \$1,250,000, plus a \$750 per day penalty should the duration of the temporary construction easement exceed 13 months and \$5,000 per additional tree damaged, will avoid potentially costly litigation expenses and the uncertainty of a final outcome associated with a trial through condemnation.

The Public Works Director concurs with the recommendations above.

FISCAL IMPACT

The cost to acquire the easements is \$1,250,000, plus a \$750 per day penalty should the duration of the temporary construction easement exceed 13 months and \$5,000 per additional tree damaged and up to \$15,000 in related title, escrow, and closing costs. Sufficient funds are available in the Tequesquite Arroyo Trunk Sewer Replacement Project Account Number 9770923203-44030106, work order 0501812.

Prepared by: Emilio Ramirez, Interim Community & Economic Development Director
Certified as to
availability of funds: Brent A. Mason, Finance Director/Treasurer
Approved by: Al Zelinka, FAICP, Assistant City Manager
Approved as to form: Gary G. Geuss, City Attorney

Attachments:

1. Property Site Map
2. Agreement for Conveyance of Easements