



*City of Arts & Innovation*

# City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JANUARY 24, 2017

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT WARD: 7

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 - TOTAL AMOUNT OF \$163,093

## **ISSUE:**

Approve an Agreement for Conveyance of Easements with the Family Trust of Heinz F. Zwingler and Betty Lee Zwingler of Riverside, California for the acquisition of two easements located at 7509 Arlington Avenue, bearing Assessor's Parcel Number 155-290-017 in the total amount of \$163,093.

## **RECOMMENDATIONS:**

That the City Council:

1. 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 \$160,093; and
2. Authorize the City Manager, or his designee, to execute the Agreement, including making minor, non-substantive changes, and to sign all documents and instruments necessary to complete the transaction and to expend up to \$3,000 for title and escrow fees, and related miscellaneous closing costs, for a total cost not to exceed \$163,093.

## **BOARD RECOMMENDATION:**

On January 9, 2017, the Board of Public Utilities with seven of eight members present, unanimously approved to approve the expenditure of \$163,093 inclusive of the \$160,093 purchase price and an estimated \$3,000 for title, escrow fees and related closing costs and 2) forward a recommendation to City Council to approve the Agreement for Conveyance of Easements with the Family Trust of Heinz F. Zwingler and Betty Lee Zwingler for two easements

on a portion of Assessor Parcel Number (APN) 155-290-017 located at 7509 Arlington Avenue.

### **BACKGROUND/LEGISLATIVE HISTORY:**

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 230kV to 69kV substation, improvements to existing substations, construction of new 69kV sub-transmission lines in the City, 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. Ninety-Four permanent easements and six temporary construction easements are required for construction of the first of the remaining three segments of RTRP. The work includes construction of 13 circuit miles of 69kV transmission lines connecting Riverside Energy Resource Center (RERC) to Harvey Lynn and Freeman Substations and is dependent on RPU acquiring all easements for this segment of work. The projected construction start date is the fall of 2017.

On August 8, 2016, the Board unanimously recommended that City Council adopt 36 Resolutions of Necessity authorizing the initiation of eminent domain proceedings to acquire the necessary real property interests for RTRP. On September 13, 2016, City Council adopted 32 Resolutions of Necessity authorizing the initiation of eminent domain proceedings to acquire the necessary real property interests for RTRP.

### **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 & Economic Development Department and the City Attorney's Office. Easements valued less than \$50,000 are approved administratively through Riverside Public Utilities and the Community & Economic Development Department. Board and City Council approvals are required for purchases of \$50,000 or greater.

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 of up to 60 days for RTRP. 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. Zwinger and Betty Lee Zwinger 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 &

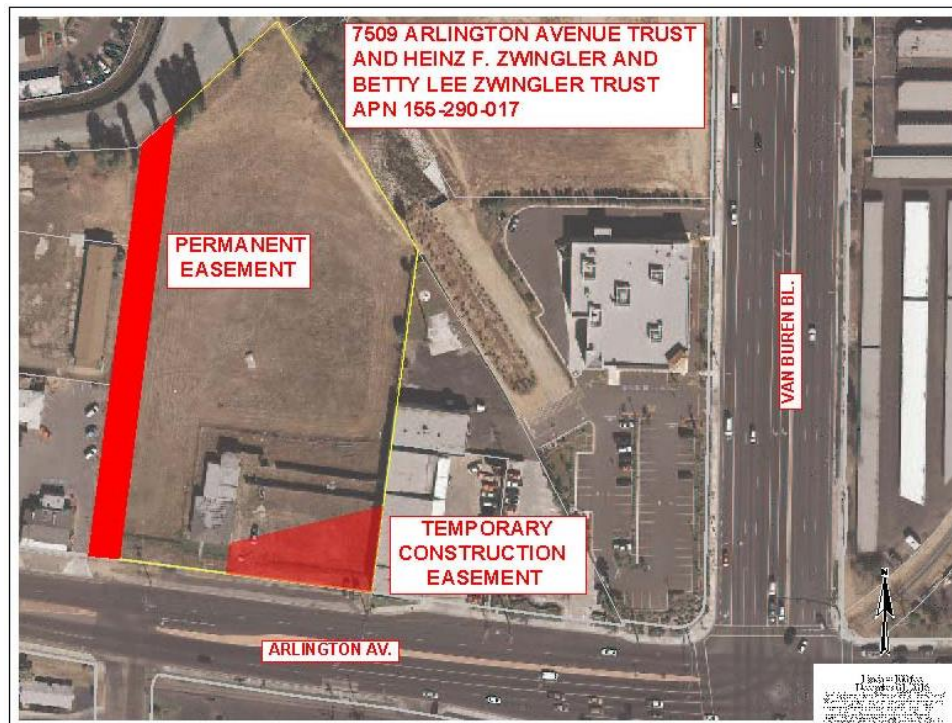
Associates dated September 13, 2015 (Laurain).

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 below.

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 cost to acquire the subject easements is \$160,093 plus up to \$3,000 in title, escrow, and miscellaneous related closing costs for a not to exceed total amount of \$163,093. Sufficient funds are available to purchase the easements is in Public Utilities' Electrical Capital Account Number 613000-470685.

Prepared by:	Rafael Guzman, Community & Economic Development Director
Certified as to availability of funds:	Scott G. Miller, PhD, Chief Financial Officer/Treasurer
Approved by:	Al Zelinka, FAICP, Assistant City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Attachment:

1. Agreement for Conveyance of Easements
2. PUB, January 9, 2017, draft minutes