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Title: ORDINANCE GRANTING A TEN (10) YEAR EASEMENT TO SAN DIEGO GAS & ELECTRIC FOR THE OPERATION AND MAINTENANCE OF A TEMPORARY ELECTRICAL FACILITY IN THE CITY OF CHULA VISTA, CALIFORNIA

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Date	Ver.	Action By	Action	Result
11/9/2021	1	Board of Port Commissioners	adopted	

DATE: November 9, 2021

SUBJECT:

ORDINANCE GRANTING A TEN (10) YEAR EASEMENT TO SAN DIEGO GAS & ELECTRIC FOR THE OPERATION AND MAINTENANCE OF A TEMPORARY ELECTRICAL FACILITY IN THE CITY OF CHULA VISTA, CALIFORNIA

BACKGROUND:

The Board of Port Commissioners ("Board") recently approved a Ground Lease ("Lease") between the San Diego Unified Port District ("District") and RIDA Chula Vista, LLC ("RIDA") and subsequently a Project Implementation Agreement ("Project Implementation Agreement") among RIDA, the District, the City of Chula Vista ("City"), the Chula Vista Bayfront Facilities Financing Authority ("Authority"), and the Bayfront Project Special Tax Financing District ("Special Tax District") at the May and June 2021 Board meetings, respectively. These agreements, among others, are to allow the construction of the following improvements within the Harbor District of the Chula Vista Bayfront ("CVB"): (i) a single-branded resort hotel with approximately 1,600 rooms ("Resort Hotel"); (ii) a convention center consisting of approximately 275,000 net usable square feet of associated meeting space ("Convention Center"); and (iii) surrounding streets and infrastructure improvements (collectively, "Phase 1A Improvements").

RIDA requested early access to Parcel H-3 (excluding the Chula Vista RV Park located on Parcel H-3) and adjacent areas to perform some of the Phase 1A Improvements required under the Project Implementation Agreement ("Early Work") which will allow for greater efficiency in the construction of the Convention Center, Resort Hotel, and remaining Phase 1A Improvements once full construction begins and shorten RIDA's construction schedule. To allow RIDA to perform this Early Work, a Chula Vista Bayfront Project Phase 1A Early Work Implementation and Right of Entry License Agreement

(the “Right of Entry”) was entered into among the District, the City, the Authority, and RIDA on September 1, 2021 after being approved by the Board at its August 2021 Board meeting. In addition to the Right of Entry, an SDGE easement was also approved by the Board at its August 2021 meeting for Early Work in Sandpiper Way.

In addition to the previously approved easement in Sandpiper Way and as part of the Early Work, RIDA similarly needs to demolish and relocate an existing San Diego Gas and Electric (“SDG&E”) electric facility in G-Street to clear Parcel H-3 for future construction while maintaining power to adjacent existing tenants. The relocated facility will be located north of G-Street and configured in such a way to be clear of the construction on Parcel H-3.

In connection with this newly relocated electric facility to be constructed as part of the Phase 1A Improvements similar to the Sandpiper Way easement, a new easement in the form attached hereto as Attachment A (the “Power Easement”) is to be entered between the District and SDG&E. The proposed Power Easement is substantially in the same form as the Sandpiper easement and will allow SDG&E to install and maintain facilities in the relocated electric facility for the transmission and electrical distribution of electricity and related public utility purposes. The Power Easement will have a term of 10 years commencing on the date the District executes the Power Easement, which shall occur five (5) days after RIDA provides notice to the District and SDG&E that RIDA has completed the necessary work to allow SDG&E to install the cabling work for the “G Street Overhead Interim Relocation” (as described in Exhibit B to the Right of Entry) and SDG&E schedules its crew to perform the remaining work. The Power Easement encompasses a land area of approximately 13,382 square feet, as further described in the Power Easement. The ten (10) year term may be terminated early by the District upon the District providing a relocation notice to SDG&E that the facilities are to be relocated, at which time the District and SDG&E plan to construct a permanent electrical facility in the newly relocated G-Street and enter into either a longer-term easement agreement or have the facility become part of the newly dedicated right-of-way.

Staff recommends the Board adopt an Ordinance granting the Power Easement to SDG&E for a temporary electrical facility needed to expedite the construction of the Convention Center, Resort Hotel, and the remaining Phase 1A Improvements.

RECOMMENDATION:

Adopt Ordinance granting the Power Easement to SDG&E for the operation and maintenance of a temporary underground electrical facility in the City of Chula Vista, California.

FISCAL IMPACT:

This agenda item has no fiscal impact.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.

DISCUSSION:

In anticipation of the commencement of construction following the recent approval of RIDA's Lease and Project Implementation Agreement and the upcoming anticipated close of escrow, RIDA requested early access to Parcel H-3 (excluding the Chula Vista RV Park) and adjacent areas to perform some of the Phase 1A Improvements. This will allow for greater efficiency in the construction of the Convention Center, Resort Hotel, and remaining Phase 1A Improvements once full construction begins and shorten RIDA's construction timeline. To allow RIDA to perform this Early Work, a Right of Entry was entered into among the District, the City, the Authority, and RIDA on September 1, 2021 after being approved by the Board at its August 2021 Board meeting. In addition to the Right of Entry, an SDGE easement was also approved by the Board at its August 2021 meeting for Early Work in Sandpiper Way. The Early Work as part of the Right of Entry includes but is not limited to the following construction items:

- Trenching, backfilling, and installing SDG&E conduits.
- Installing of AT&T conduits.
- Underground excavation, trenching, conduit, and pavement repair for SDG&E and AT&T overhead poles and wiring installations.
- Capping of water mains.
- Capping sewer mains.

There is currently located an electrical facility in G-Street that is powered from Marina Parkway in the east and travels westerly down G-Street and provides energy to Marine Group Boat Works. Prior to commencing construction of the Convention Center, Resort Hotel, and remaining Phase 1A Improvements, some existing utility facilities must be relocated to avoid cessation of service to adjoining, existing District tenants. This electrical facility will need to be turned off and demolished to allow RIDA to grade and construct Parcel H-3. As part of the Early Work, RIDA will install a temporary electrical facility in which SDG&E will run their lines and conduits through that is located adjacent to Parcel H-3. Once the Resort Hotel is complete, RIDA plans to relocate the electrical facility into the newly constructed G-Street as depicted in Attachment B, which will serve as the permanent electrical facility. By performing the Early Work, existing tenants will continue to receive power without interruption and RIDA will be in a position to commence grading and construction on Parcel H-3 once the close of escrow occurs. SDG&E will be providing these services to facilitate the construction on Parcel H-3.

Accordingly, the Power Easement is required to facilitate this newly relocated temporary electric facility. The proposed Power Easement is substantially in the same form as the Sandpiper easement previously approved by the Board and will allow SDG&E to excavate for, lay, erect, construct, build, install, modify, improve, rebuild, reconstruct, relocate, reconfigure, repair, replace, substitute, change the size of, upgrade, maintain, patrol, inspect, test, operate, use and remove facilities consisting of electrical facilities for the transmission and electrical distribution of electricity and related public utility purposes, together with all fixtures, equipment, and appurtenances necessary or convenient for the maintenance, operation and use thereof and for communication facilities and appurtenances used solely and exclusively for SDG&E internal communications. The Power Easement will have a term of 10 years and encompass a land area of approximately 13,382 square feet, all as further described in the Power Easement. The easement is non-exclusive to allow RIDA to perform any post-completion work that is necessary and coordinate work with SDG&E as necessary, and will not be executed and become effective until (i) RIDA provides notice to the District and SDG&E that RIDA has completed the necessary work to allow SDG&E to complete the G-Street Overhead Interim Relocation contemplated in the Right of Entry and (ii) SDG&E has provided notice that it has scheduled the G-

Street Overhead Interim Relocation to be completed. The authorizing ordinance further provides that if the District has not received the foregoing notices on or before December 31, 2022, then the ordinance will be automatically null and void and of no further force and effect.

While the Power Easement has a term of 10 years, it is anticipated to be relocated and demolished prior to completion of the Resort Hotel (approximately 36 months) to a final location in future G-Street. The future anticipated relocation of the Power Easement will re-route this facility to newly constructed utility facilities in future G-Street. The Power Easement contains provisions that allow the District to trigger the removal and relocation of associated power infrastructure to this new location, after which the Power Easement would terminate and the District and SDG&E plan to enter into either a longer-term easement agreement or have the facility become part of the newly dedicated right-of-way.

The Power Easement to SDG&E will allow for the continued operation and maintenance of an electrical facility installed as part of the Power Easement to serve existing tenants during the construction phase.

Staff recommends that the Board adopt an Ordinance for the Power Easement to SDG&E for a temporary electrical facility.

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet and Attachments as presented to it and approves the same as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, an ordinance for a ten (10) year easement to San Diego Gas & Electric for the operation and maintenance of an electrical facility was previously analyzed in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (UPD #83356-EIR-658; SCH #2005081077; Clerk Document No. 56562), certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, which was adopted by the Board on August 13, 2013 (Resolution No. 2013-138), the Second Addendum to the FEIR, which was adopted by the Board on April 10, 2018 (Resolution No. 2018-0069), and the Third Addendum to the FEIR, which was adopted by the Board on December 8, 2020 (Resolution No. 2020-116). The proposed Board action is not a separate "project" for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.) Additionally, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR and Addendums, the District finds that the proposed Board action does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the FEIR and Addendums due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the FEIR and Addendums, (b) identifies significant impacts would not be more severe than those analyzed in the FEIR and Addendums, or (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, and 3) no changes to mitigation measures or

alternatives have been identified or are required. Pursuant to CEQA Guidelines §15162(b), the District finds that no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step-in furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required.

The proposed Board action complies with Sections 21, 35, and 87 of the Port Act which allow for the Board to pass resolutions, to do all acts necessary and convenient for the exercise of its powers, and for all visitor-serving commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed action is consistent with the Public Trust Doctrine.

The proposed Board action was covered in the Coastal Development Permit (CDP) for the Resort Hotel and Convention Center, Parking, Infrastructure and Phase 1A Improvements (CDP-2019-03; Clerk Document No. 70152) approved by the Board on June 18, 2019 (Resolution No. 2019-080). The proposed Board action is consistent with the project in the CDP. No additional action under the California Coastal Act is required at this time.

Diversity, Equity, and Inclusion Program:

This agenda item does not have any direct DEI impact.

PREPARED BY:

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Attachment(s):

Attachment A: Power Easement with San Diego Gas & Electric
Attachment B: Map of Site