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Title: ORDINANCE GRANTING AN APPROXIMATELY SIXTY-THREE (63) YEAR NINE (9) MONTH EASEMENT, IN SUBSTANTIAL FORM, TO THE CITY OF SAN DIEGO FOR WATER FACILITIES LOCATED WITHIN THE SETBACK PARK, NORTH OF WEST BROADWAY BETWEEN NORTH HARBOR DRIVE AND PACIFIC HIGHWAY IN THE CITY OF SAN DIEGO, TERMINATING MAY 31, 2082

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Attachments: 1. 13. 2018-0310 Attachment A, 2. 13. 2018-0310 Attachment B, 3. 13. 2018-0310 Draft Ordinance

Date	Ver.	Action By	Action	Result
7/17/2018	1	Board of Port Commissioners	adopted	

DATE: July 17, 2018

SUBJECT:

ORDINANCE GRANTING AN APPROXIMATELY SIXTY-THREE (63) YEAR NINE (9) MONTH EASEMENT, IN SUBSTANTIAL FORM, TO THE CITY OF SAN DIEGO FOR WATER FACILITIES LOCATED WITHIN THE SETBACK PARK, NORTH OF WEST BROADWAY BETWEEN NORTH HARBOR DRIVE AND PACIFIC HIGHWAY IN THE CITY OF SAN DIEGO, TERMINATING MAY 31, 2082

EXECUTIVE SUMMARY:

The District entered into a 66-year Lease¹ (Lease) with LFS Developers, LLC, (Lane Field South) on June 1, 2016 to operate a 400-room single-branded Intercontinental Hotel located between Pacific Highway and North Harbor Drive, north of West Broadway, in the City of San Diego. As part of the Lease, Lane Field South was required to build a 55-foot setback park from north of West Broadway between Harbor Drive and Pacific Highway to the south property line of Lane Field South’s leasehold in the City of San Diego (Broadway Setback Park).

As part of completing Broadway Setback Park, the City of San Diego (City) is requesting an approximately 550-square-foot easement for access and maintenance of a 6-inch domestic water line and water meters located along West Broadway (Attachment A - Location Map).

Staff recommends the Board grant an easement, in substantial form, to the City commencing on or about September 1, 2018 and ending May 31, 2082.

RECOMMENDATION:

Adopt an Ordinance Granting an Approximately Sixty-Three (63) Year and Nine (9) Month Easement, in Substantial Form, to the City of San Diego for Water Facilities Located within the Setback Park, North of West Broadway between North Harbor Drive and Pacific Highway in the City of San Diego, Terminating May 31, 2082.

FISCAL IMPACT:

This Board action has no fiscal impact.

This agenda item is subject to Board Policy No. 106 - Cost Recovery User Fee Policy.

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:

Lane Field South's Lease with the District covers approximately 69,278 square feet of land area located between Pacific Highway and North Harbor Drive, north of West Broadway, in the City of San Diego. The Lease commenced on June 1, 2016 and has a term of 66-years, which expires on May 31, 2082. Lane Field South's leasehold is comprised of a 400-room single-branded Intercontinental Hotel within a single tower, meeting space and banquet rooms, 686 parking spaces and 32,850 square feet retail space. As part of the Lease, Lane Field South was required to build Broadway Setback Park as required by the Coastal Development Permit for the development of Lane Field South and Lane Field North.

As part of completing Broadway Setback Park on the Lane Field South project, the City is requesting an approximately 550-square-foot easement for access and maintenance of a 6-inch domestic water line and above ground water meters located along West Broadway within Broadway Setback Park (Attachment B - Easement). The proposed easement would be co-terminus with the Lease, which terminates May 31, 2082. The water line and meters are public and serve the Lane Field South leasehold.

Staff recommends the Board grant an easement, in substantial form, to the City commencing on or about September 1, 2018 and ending May 31, 2082.

General Counsel's Comments:

The Office of the General Counsel has reviewed the easement and approves as to form and legality.

Environmental Review:

The District originally approved development of the Lane Field site for hotel, retail and office use as part of the North Embarcadero Alliance Visionary Plan (NEAVP). The potential environmental impacts of the proposed uses were analyzed in the Master Environmental Impact Report (MEIR) for the NEAVP, which was certified by the District on April 25, 2000 (Resolution 2000-82). Pursuant to State

California Environmental Quality Act (CEQA) Guidelines Section 15179, the Board adopted Resolution 2006-131 on August 8, 2006, which found that: (1) no substantial changes have occurred with respect to the circumstances under which the NEAVP MEIR was certified; (2) the MEIR is adequate for use in the review of subsequent projects; and, (3) the mitigation measures contained in the NEAVP MEIR and Mitigation Monitoring and Reporting Program adopted by the Board under Resolution 2000-82 remain in effect and are applicable for subsequent projects described in the MEIR. The District subsequently prepared an Addendum to the MEIR for the Lane Field Development project as the environmental review for a Coastal Development Permit (CDP) for development of the Lane Field North and South parcels with a total of 800 hotel rooms and 80,000 square feet of retail space. The District adopted the Addendum on January 8, 2008. The proposed project is consistent with the project analyzed in the Addendum. 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.) Accordingly, the proposed Board action is merely a step in furtherance of the original project for which environmental review was performed, and no further environmental review is required.

In addition, the proposed Board action complies with Section 87 of the Port Act, which allows for 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 Board action is consistent with the Public Trust Doctrine.

Finally, the District authorized issuance of a CDP for the Lane Field Hotel project. The CDP was subsequently appealed by the California Coastal Commission (CCC). On January 8, 2009, the CCC determined the project complied with CEQA and approved the CDP for the Lane Field Hotel project (A-6-PSD-08-04/A-6-PSD-08-101). Furthermore, on April 13, 2011, the CCC approved the CDP for the NEVP Phase 1 project, with the understanding that an amendment to the Lane Field CDP would be required to include the Setback Park in the redesign of the hotel development. On February 6, 2013, the CCC authorized an amendment to the Lane Field CDP to incorporate the Setback Park as part of the project (A-6-PSD-08-04-A1). In November 2013, the CCC authorized an amendment to the Lane Field CDP to extend the expiration date to January 8, 2015 (A-6-PSD-08-004-E2). On September 22, 2015, the CCC authorized a second amendment to the Lane Field CDP to modify the project description and Public Access Plan concerning the publicly-accessible terrace and restaurant components of the project (A-6-PSD-08-004-A2). On January 11, 2016, the CCC authorized a third amendment to the Lane Field CDP to modify project description to extend the required construction start date by six months from February 6, 2016 to August 6, 2016 (A-6-PSD-08-004-A3). Finally, on February 8, 2018, the CCC authorized a fourth amendment to the Lane Field CDP to incorporate a temporary electronic public art (CDP No. A-6-PSD-08-004-A4). The proposed Board action to approve an ordinance granting an easement for water utilities is consistent with the project description in the CCC-issued CDP, as amended. No additional action under the California Coastal Act is required at this time.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):

Attachment A: Location Map

Attachment B: Easement

¹ San Diego Unified Port District Lease to LFS Developers, LLC., on file in the Office of the District Clerk bearing Document No. 64976, filed May 24, 2016.