



Santa Clara Valley Water District

File No.: 17-0298

Agenda Date: 11/28/2017

Item No.: 3.6.

BOARD AGENDA MEMORANDUM

SUBJECT:

Resolution Authorizing the Conveyance of Interests in Real Property to Civic South Bay LLC for the Evergreen Circle Project, Project No.62011002 on Lower Silver Creek (San Jose), (District 1).

RECOMMENDATION:

- A. Consider the Environmental Impact Report, Supplemental Environmental Impact Report, and Addendum for the Evergreen-East Hills Vision Strategy prepared by the City of San Jose as the Lead Agency;
- B. Adopt a Resolution MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF OF REAL PROPERTY CONVEYANCE ALONG SILVER CREEK;
- C. Adopt a Resolution APPROVING THE RECONVEYANCE OF REAL PROPERTY TO CIVIC SOUTH BAY LLC, A SUCCESSOR IN INTEREST TO THE FORMER OWNER; and
- D. Approve and Authorize the Chief Executive Officer (CEO) to Execute the Agreement for Sale of Real Property to Civic South Bay LLC and Quitclaim Deeds Real Estate File No. 4026-92.1 and 4026-93.1.

SUMMARY:

Civic South Bay LLC (Civic) is proposing to develop 250 residential dwelling units, 315,000 square feet of retail, a public softball complex, and related infrastructure (public and private streets and related utilities) within the 80 acres of vacant parcels (APN 670-29-022, 023, & 024, formerly 670-29-002, 017, 020, & 071) in the City of San Jose.

In 1979, Eli Reinhard and Ben Har Company dedicated to the Santa Clara Valley Water District (District) fee title property and two easements to operate and maintain 2,730 feet of Lower Silver Creek (LSC) contained in a 72-inch diameter cast-in-place pipe (CIPP) located within the proposed development. With the development of the parcels, 1,060 feet of LSC will be removed and 1,170 feet of LSC will be realigned and constructed in a new 72-inch diameter reinforced concrete pipe (RCP) outside the District's easement and within a public street. Realignment of the CIPP conveying LSC is necessary for the developer because in its current location, the CIPP will unduly interfere with proposed infrastructure improvements related to the new development. Civic has requested that the District quitclaim the fee title property and easements, formerly dedicated to the District by Civic's predecessor, to Civic now to enable them to move forward with construction of the Evergreen Circle Project (Attachment 9 & 10). Once the realignment is completed, Civic will dedicate to the District a

new easement encompassing 1,170 feet of the new 72-inch diameter RCP (Attachment 1).

In 2014, a Phase I Hazardous Substance Liability Assessment (HSLA) investigation was performed and the results did not identify any Recognized Environmental Concerns. These assessments are sufficient as the site conditions have not changed since the Phase I HSLA were conducted. Therefore, an HSLA waiver was approved to waive the requirement to perform a new HSLA prior to the quitclaim of the fee title property and easements (Attachment 3 & 4). (As of September 13, 2017, Arcadia Development Co has sold their real property interest to Civic South Bay LLC).

This item is presented to the board in accordance with the District Act, Section 31 which states that "The Board may by majority vote exchange real property of equal value with any person, firm, or corporation... where the real property to be exchanged is not required for District use and the property to be acquired is required for District use." This proposed conveyance of the easement and fee title property for appurtenant pipeline improvements with Civic meets this criterion because the District will be receiving a replacement easement of greater length at a new location in exchange for the current pipeline easement in the existing location (Attachment 2).

The fee disposition is presented to the board in accordance with the District Act, Section 31 which states, "The Board may reconvey real property to the former owner by whom the property was conveyed, or from whom the property was condemned by the district, or the owner's successor in interest for fair market value." Civic is the successor in interest to Eli Reinhard and Ben Har Company. Based on the review of the appraisal of real property for Evergreen Circle Project and the educated opinion of value prepared by the District's Real Estate Services Unit staff, the fee title property of approximately 218 square feet to be quitclaimed is valued at \$2,751.00 and Civic has agreed to pay the District this amount. The Agreement for Sale of Real Property to Civic South bay LLC (Agreement) memorializing this disposition is attached hereto as Attachment 8.

If the Board adopts the attached Resolution, the CEO will execute the Agreement and Quitclaim Deeds. The CEO will accept the new dedicated easement from Civic upon construction of the new pipeline easement.

FINANCIAL IMPACT:

Staff labor costs to process the permitting and the real property transaction are reimbursed by the developer in accordance with the Board adopted standard rate schedule for services and activities regulated by the Water Resources Protection Ordinance. Based on the educated opinion of value, the fee title property of approximately 218 square feet to be quitclaimed is in the amount of \$2,751.00, which will also be paid by the developer to the District.

CEQA:

The District must consider the environmental documents prepared and certified by the City as a Responsible Agency under CEQA. The City certified an Environmental Impact Report for Evergreen-East Hills Vision Strategy on December 12, 2006, which provides a vision and framework of land use policies for development within the greater Evergreen-East Hills area of the City, including the subject

property. The City approved revisions to the Evergreen Development Policy in 2008 and prepared a Supplemental Environmental Impact Report, which was certified on December 16, 2008. On December 16, 2014, the City considered and approved the Evergreen Circle Project while considering the potential environmental impacts of the action with an Addendum to the Evergreen-East Hills Vision Strategy & Supplemental Environmental Impact Reports (Attachment 7). In considering these documents as a Responsible Agency, the District is required to make findings regarding the environmental effects of those parts of the project which it decides to approve (Attachment 5 & 6).

The District's approval of the quitclaim deed will allow the pipeline for Lower Silver Creek to be realigned. This action will contribute to three significant impacts identified in the Final EIR and Supplemental EIR: impacts to nesting birds; disturbance to known cultural resources; and impacts from geological hazards. Mitigation measures have been identified in the EIR, and will be implemented by the developer as required by the City, to reduce these impacts to a less than significant level. Other impacts identified in the EIR are related to the development of residential, commercial, and recreational uses permitted under the Project. These impacts will occur regardless of District action.

ATTACHMENTS:

- Attachment 1: Site Map
- Attachment 2: Resolution
- Attachment 3: Hazardous Substance Liability Assessment
- Attachment 4: Waiver Memo
- Attachment 5: CEQA Findings
- Attachment 6: CEQA Resolution
- Attachment 7: Draft Environmental Impact Report
- Attachment 8: Agreement for Sale of Real Property to Civic South Bay LLC
- Attachment 9: Quitclaim Deed #4026-92.1
- Attachment 10: Quitclaim Deed #4026-93.1

UNCLASSIFIED MANAGER:

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