



Santa Clara Valley Water District

File No.: 21-0498

Agenda Date: 4/27/2021

Item No.: *3.8.

BOARD AGENDA MEMORANDUM

SUBJECT:

Adopt a Resolution Making Responsible Agency Findings Pursuant to the California Environmental Quality Act for Approval of the Use of the Santa Clara Valley Transportation Authority's Eastridge to BART Regional Connector-Capitol Expressway Light Rail Project Environmental Impact Report to Approve an Agreement for Possession and Use; and Approve and Authorize the Chief Executive Officer to execute the Agreement for Possession and Use between the Santa Clara Valley Transportation Authority and the Santa Clara Valley Water District for Easement Rights on Thompson Creek to Facilitate Construction of the Eastridge to BART Regional Connector-Capitol Expressway Light Rail Project, prior to the conveyance of Real Property Rights, APN Nos. 491-02-066 and 491-48-006, Real Estate File Nos. 4047-6.4 and 4047-0.65 (San Jose) (District 1). (Previously Listed as Item 6.1)

RECOMMENDATION:

- A. Adopt a Resolution MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF THE USE OF THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY'S EASTRIDGE TO BART REGIONAL CONNECTOR-CAPITOL EXPRESSWAY LIGHT RAIL PROJECT ENVIRONMENTAL IMPACT REPORT TO APPROVE AN AGREEMENT FOR POSSESSION AND USE; and
- B. Approve and authorize the Chief Executive Officer to execute the Agreement for Possession and Use between the Santa Clara Valley Transportation Authority and the Santa Clara Valley Water District for Easement Rights on Thompson Creek to Facilitate Construction of the Eastridge to BART Regional Connector-Capitol Expressway Light Rail Project.

SUMMARY:

The Santa Clara Valley Transportation Authority's (VTA) Eastridge to BART Regional Connector-Capitol Expressway Light Rail Project ("EBRC Project") will extend public transportation service from the current Alum Rock Light Rail Station approximately 2.4 miles to the Eastridge Transit Center on an elevated guideway. Two (2) light rail stations will be added with an elevated station at Story Road and an at-grade station adjacent to the Eastridge Transit Center. VTA must relocate several Pacific Gas and Electric (PG&E) transmission towers as part of their EBRC Project. VTA is seeking to acquire easement rights on Santa Clara Valley Water District (Valley Water) property along Thompson creek for the relocation of two (2) of these PG&E transmission towers. Upon completion of the EBRC Project, VTA shall transfer these easement rights to PG&E.

The Agreement for Possession and Use ("Agreement"), which include the final Easement Deeds (Easements), are included as Attachment 2. The Easements are located on Thompson Creek, Assessor Parcel numbers ("APN") 491-02-066 and 491-48-006. The purpose of the Agreement is to allow VTA immediate use and possession of a portion of the two (2) Valley Water APNs to proceed with the construction of the EBRC Project without delay or prejudice to Valley Water's right to receive just compensation for the Easements.

Valley Water and VTA staff have worked together to develop a workable solution that will enable all parties to successfully move forward with their operations. Valley Water has worked to ensure the easements acquired by VTA would not unreasonably interfere with Valley Water's current operations. Significant future costs would occur in the event the power lines or poles interfere with future flood protection modifications or operations

Even though Valley Water and VTA have reached agreement on the Easement terms and conditions, Valley Water has identified several terms and conditions included in the Easement rights that require additional compensation. The Agreement allows Valley Water and VTA to continue for the next six months to negotiate the appropriate just compensation for the Easements, including related operational impacts and costs to Valley Water. If a settlement is not reached within six (6) months of the execution of this Agreement, VTA will begin timely preparations for the filing of a complaint in eminent domain to acquire the Easements and determine appropriate just compensation. If VTA begins proceedings in eminent domain, this Agreement will continue in effect until either a settlement is reached or a final order of condemnation is entered by the court, or the proceedings are abandoned by VTA.

Staff recommends the Board approve this Agreement with the understanding that if staff successfully negotiates acceptable just compensation for the Easements, staff will return to present a purchase and sale agreement to complete this real estate transaction.

FINANCIAL IMPACT:

VTA has made an offer of \$8,600.00 based on the appraised value of the land rights sought by VTA. This sum will be deposited in an escrow account as provided in the Agreement. Staff does not agree with the opinion of value provided by VTA and is currently negotiating just compensation for the value of the Easements.

CEQA:

The VTA Board certified A Final Environmental Impact Report on May 2005, Supplemental Final EIR (SEIR) in August 2007, and a Second Supplemental Final EIR (SEIR-2) June 2019. VTA has also prepared three addendums to the SIER-2. These addenda do not affect this Agreement or the proposed Easements. The impacts of the EBRC Project and this requested action have been adequately considered by VTA.

Valley Water, as a responsible agency under CEQA, has considered the EIR, SEIR's, and Addenda prepared by VTA and is adopting the lead agency findings (CEQA guidelines Section 15091) and

statement of overriding considerations (CEQA guidelines Section 15093) for approval of the Agreement.

ATTACHMENTS:

Attachment 1: Resolution
Attachment 2: Agreement

UNCLASSIFIED MANAGER:

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