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**File #:**2023-0301

**DATE:** December 5, 2023

**SUBJECT:**

**ORDINANCE GRANTING AN APPROXIMATELY SIXTY-FOUR (64) YEAR EASEMENT, IN SUBSTANTIAL FORM, TO SAN DIEGO GAS & ELECTRIC FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF UNDERGROUND ELECTRICAL FACILITIES IN CONNECTION WITH THE IMPLEMENTATION OF THE CHULA VISTA BAYFRONT PROJECT IN THE CITY OF CHULA VISTA, CALIFORNIA**

**EXECUTIVE SUMMARY:**

The Board of Port Commissioners (“Board”) previously approved a Ground Lease between the San Diego Unified Port District (“District”) and RIDA Chula Vista, LLC (“RIDA”) and subsequently a Project Implementation Agreement among RIDA, the District, the City of Chula Vista, and the Chula Vista Bayfront Facilities Financing Authority at the May and June 2021 Board meetings, respectively. These agreements, among others, are to facilitate the construction of the following improvements on Parcel H-3 within the Harbor District of the Chula Vista Bayfront (collectively, the “Project”): (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 (“Phase IA Improvements”).

An easement (“Easement”) between the District and San Diego Gas & Electric Company (“SDG&E”) in the form of Attachment B to this Agenda Sheet is needed to facilitate the construction and maintenance of electrical facilities on the H3 parcel within the boundaries of RIDA’s leasehold, as shown on Attachment A, and in the specific location described and depicted on the plat and legal description attached to the Easement as Exhibit A and Exhibit B. The term will commence on the date the Easement is executed by the District and SDG&E, and will terminate on May 25, 2088, which is coterminous with RIDA’s Ground Lease; therefore, in no event will the Easement exceed sixty-six (66) years. The form and substance of the Easement has been agreed to between the District and SDG&E; however, Exhibit A and Exhibit B attached to the Easement may need to be updated to conform with the District’s standard requirements for the plat map and legal description for the area identified in the Easement or adjust the area identified in the Easement, provided that the exact location of the easement remain within the H3 parcel.

If the Board adopts the Ordinance approving the proposed Easement, it will authorize the Executive Director or their designated representative to (i) administratively approve and execute the Easement substantially in the form attached as Attachment B, and (ii) to administratively update the plat and legal description of the area identified in the Easement to conform with the District’s standard

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requirements or to adjust the area identified in the Easement so long as the Easement area remains within the H3 parcel. The effectiveness of the Ordinance will be conditioned upon obtaining RIDA's written consent to the Easement.

In light of the foregoing and to further advance the Project, staff recommends the Board adopt an ordinance granting the proposed Easement, in substantial form, to SDG&E for underground electrical facilities to provide utility service to the Project, subject to the foregoing conditions.

**RECOMMENDATION:**

Adopt an Ordinance granting an approximately 64-year Easement, in substantial form, to SDG&E for underground electrical facilities in connection with the implementation of the Chula Vista Bayfront Project.

**FISCAL IMPACT:**

There is no fiscal impact caused by approval of this action.

**COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goal

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

**DISCUSSION:**

The Project is the result of a decade-long joint planning effort by the District, the City, and a broad coalition of stakeholders. As part of the implementation of the Project, utility infrastructure will need to be located within the H3 parcel to provide utility service to the Resort Hotel and Convention Center.

The proposed Easement will allow SDG&E to install and maintain facilities consisting of underground electrical facilities for the transmission and distribution of electricity and related public utility purposes to provide long term service to the Resort Hotel and Convention Center. As the Easement will be located within the boundaries of RIDA's leasehold, RIDA's written consent to the Easement will be required as a condition to its effectiveness.

The term will commence on the date the Easement is executed by the District and SDG&E, and will terminate on May 25, 2088, which is coterminous with RIDA's Ground Lease. The form and substance of the Easement has been agreed to between the District and SDG&E. In addition, Exhibit A and Exhibit B attached to the Easement may need to be updated to conform with the District's form requirements for the plat map and legal description of the relevant Easement areas or to adjust the area identified in the Easement, provided that the location of the easement will in any event be located within the H3 parcel.

If the Board adopts the Ordinance approving the Easement, it will allow the Executive Director or their designated representative to (i) administratively approve and execute the Easement

substantially in the form attached as Attachment B between the District and SDG&E, and (ii) to administratively update the plat and legal description of the area identified in the Easement to conform with the District's standard requirements or to adjust the area identified in the Easement so long as the Easement area remains within the H3 parcel; provided that the Ordinance's effectiveness will be conditioned upon RIDA providing written consent to the Easement.

To further implement the Project, staff recommends the Board adopt an Ordinance granting the proposed Easement, in substantial form, to SDG&E for underground electrical facilities to provide utility service to the Project, subject to the foregoing conditions.

**General Counsel's Comments:**

The Office of the General Counsel has reviewed this Agenda Sheet and the attachments as presented to it and approves the same as to form and legality.

**Environmental Review:**

The proposed Board action, including without limitation, ordinance granting a sixty-four (64) year easement, in substantial form, to San Diego Gas & Electric for the construction, operation and maintenance of underground electrical facilities in connection with the implementation of the Chula Vista Bayfront Project in the city of Chula Vista, California was adequately 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) prepared and 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, the District finds and recommends 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 previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 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 previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (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, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary. Accordingly, the proposed Board action is merely a step in the 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 Board 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 for issuance by the District on June 18, 2019 (Resolution No. 2019-080) The proposed Board action is consistent with the CDP. No additional action under the California Coastal Act is required at this time.

**Diversity, Equity, and Inclusion Program:**

This agenda sheet has no direct DEI impact on District workforce or contract reporting at this time.

**PREPARED BY:**

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**Attachment(s):**

Attachment A:      Location Map  
Attachment B:      Form of Proposed Easement