



Council Agenda Report

From: David Athey, City Engineer

Subject: Approval of a Durable Encroachment Agreement with River Walk Terrace for the Installation of a Private Underground Water Service at Larry Moore Park

CEQA Determination: The Durable Encroachment Agreement is categorically exempt from the California Environmental Quality Act ("CEQA") under the Class 4 exemption, which applies to minor public or private alterations in the condition of land, water, and/or vegetation where the project does not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes (*see* CEQA Guidelines section 15304).

Date: March 7, 2023

Facts

1. On [February 16, 2021](#), City Council approved River Walk Terrace (River Walk), a 79-unit senior housing development, oak tree removal permit, and deferral of certain development-related fees located on the southwest corner of Woodland Plaza II shopping center, south of Niblick Road, and west of River Road (see Attachment 1).
2. River Walk recently received grant funding with accelerated deadlines to procure construction permits. The project must be in construction by June 2023.
3. The Woodland Plaza II CCRs allow for shared use of the domestic water line servicing the commercial development.
4. However, the City Utility Department does not allow for shared water line use between residential and commercial development.
5. The project team explored installing an independent water service from South River Road but has discovered that the Commercial Development's CCRs do not allow for these individual services. The project representatives are therefore, requesting a Durable Encroachment Agreement to install a two-inch water service across the east end of Larry Moore Park.
6. A Durable Encroachment Agreement will allow the River Walk project to meet grant construction timelines.
7. City staff has prepared a Durable Encroachment Agreement that spells out terms and conditions for the two-inch water service installation, including insurance coverage, indemnification, removal, and maintenance.
8. River Walk representatives agrees with the Encroachment Agreement terms and conditions.

Options

1. Take no action.
2. Authorize the City Manager to enter into a Durable Encroachment Agreement, attached in substantially final form, with River Walk Terrace LP, for the installation of two-inch water service across Larry Moore Park, and make any necessary modifications to the Agreement in consultation with the City Attorney.
3. Refer this item back to staff for additional information and refinement.

Environmental Review

The Durable Encroachment Agreement is exempt from CEQA under the Class 4 exemption, which applies to minor public or private alterations in the condition of land, water, and/or vegetation where the project does not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes (*see* CEQA Guidelines section 15304).

Analysis and Conclusion

Affordable housing projects are unique in that they typically are funded from multiple funding sources including state and federal grants. Additionally, it is not uncommon for these types of grants to have very aggressive construction timelines as the intent of the grant is to construct and get people into homes. River Walk recently reached out to the City indicating that they have received the necessary funding for the project, but construction permits need to be issued by June 2023. One of the main problems with the project today is the need to install water infrastructure and the current CCRs limit that ability. A durable encroachment permit will allow the project to move forward since they do not have the typical time to negotiate an easement with the other property owners while also complying with the grant construction timelines. Staff has reviewed the request and believes it is the most expeditious method of providing water service and complying with grant deadlines.

City staff in the Community Services, Public Works, and Utilities Departments have reviewed River Walk's request to cross Larry Moore Park in terms of impact to current and future facilities at Larry Moore Park. River Walk will be responsible for the water line and any relocation that is needed to accommodate future Larry Moore Park Projects. The Utilities Department agrees with the water service location and has confirmed the water line in Riverbank Lane has ample capacity to serve the project.

Fiscal Impact

None. This encroachment agreement will not have a fiscal impact on the City as River Walk is required to reimburse the City for all permitting costs.

Recommendation

Approve Resolution 23-XXX, authorizing the City Manager to enter into a Durable Encroachment Agreement with River Walk LP, attached in substantially final form, for the installation of two-inch water service crossing the east end of Larry Moore Park, and make any necessary modifications to the Agreement in consultation with the City Attorney.

Attachments

1. Location Map
2. Resolution 23-XXX
 - a. Durable Encroachment Permit Agreement between the City of El Paso de Robles and River Walk LP.