

Attachment 2

RESOLUTION 23-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES APPROVING A DURABLE ENCROACHMENT AGREEMENT BETWEEN THE CITY OF EL PASO DE ROBLES AND RIVER WALK TERRACE LP AND FIND THE ACTION EXEMPT FROM CEQA.

WHEREAS, River Walk Terrace LP (River Walk) is the owner of property in the Woodland Plaza II development; and

WHEREAS, River Walk is requesting that the City allow the installation of a private two-inch water service across the eastern end of Larry Moore Park; and

WHEREAS, River Walk recently received grant funding with tight deadlines to procure construction permits. The project must be in construction by June 2023; and

WHEREAS, River Walk has discovered that the Woodland Plaza II's CCRs allow for shared use of the domestic water line servicing the development; and

WHEREAS, the Utility Department does not allow for shared water line use between residential and commercial development for health and safety reasons; and

WHEREAS, River Walk explored installing an independent water service from South River Road but has discovered that the Commercial Development's CCRs do not allow for individual services; and

WHEREAS, River Walk is requesting a Durable Encroachment Agreement to install a two-inch water service across the east end of Larry Moore Park because they do not have time to negotiate an easement with the other property owners in the development and comply with the grant construction timelines; and

WHEREAS, 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; and

WHEREAS, River Walk agrees with the Encroachment Agreement terms and conditions; and

WHEREAS, a public hearing was conducted by the City Council on March 7, 2023 to consider facts as presented in the staff report prepared for this project, and to accept public testimony regarding this proposed right of way encroachment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. **CEQA.** The City Council finds the Durable Encroachment Permit 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)

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Section 3. **Findings.** based upon the facts and analysis presented in the staff report, public testimony received and subject to the conditions listed below, the City Council makes the following findings:

1. The proposed encroachment is consistent with the adopted codes, policies, standards and plans of the City. The proposed encroachment will be constructed to City Standard Detail G-3 for two-inch water service assembly and will comply with the Building Code private water line requirements; and
2. The proposed encroachment will not be detrimental to the health, safety, morals, comfort, convenience, and general welfare of the residents and or businesses in the surrounding area, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City; and
3. The proposed encroachment accommodates the aesthetic quality of the City as a whole since the two-inch domestic water service will be installed underground.

Section 4. **Approval.** The City Council of the City of El Paso de Robles does hereby approve the Durable Encroachment Agreement for Installation and Maintenance of Underground Pipeline, attached hereto as Exhibit A in substantially final form, and incorporated herein by reference, and authorizes the City Manager to execute said agreement and in consultation with the City Attorney to make any necessary modifications to the agreement for clarity.

Approved by the City Council of the City of El Paso de Robles this 7th day of March 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Ty Lewis, City Manager

Melissa Boyer, City Clerk

Exhibit A – Durable Encroachment Permit