



Order No. 2020-02-007

AN ORDER OF THE COUNCIL OF THE CITY OF NOGALES, ARIZONA, AUTHORIZING A CONDEMNATION ACTION, IF NECESSARY, TO OBTAIN SEWER EASEMENTS ON TWO PRIVATELY OWNED PARCELS WITHIN NOGALES, ARIZONA

WHEREAS, the sewer main crossing Grand Avenue from the manhole in front of 1st Bank of Yuma building through the Alamos Grand Plaza and El Dorado Motel parcels to the IOI has collapsed and needs to be completely replaced; and

WHEREAS, as an interim solution, the City's sewer utility has been pumping wastewater from the above manhole across Western Avenue to the nearest manhole on the northern side of Western Avenue, at a cost of approximately \$1,000 per day; and

WHEREAS, after considering various alternatives, the preferred alignment for a new replacement sewer main is to construct a new manhole south of the 1st Bank of Yuma building, then across Grand Avenue and the northern fifteen feet of the undeveloped parcel to the immediate south of Alamos Grand Plaza and then north behind Alamos Grand Plaza through the parking lot of El Dorado Motel parcel to connect to the old sewer alignment, which also must be rebuilt, as depicted on Exhibit A hereto; and

WHEREAS, City staff has estimated the value of the two sewer easements to be no more than \$5,000 and \$10,000, respectively, which has been offered to the owners as compensation to dedicate the respective sewer easements; and

WHEREAS, negotiations with the owners of the two parcels on which the new alignment will be located have not yet produced an agreement to dedicate to the City the necessary sewer easements required for the project to go forward; and

WHEREAS, time is of the essence and it is in the best interest of the City and its citizens and residents to initiate a condemnation action, if necessary, to obtain the sewer easements required to allow construction of the replacement sewer main construction project to proceed.

NOW THEREFORE, BE IT ORDERED BY THE COUNCIL OF THE CITY OF NOGALES that:

1. The City Attorney is hereby authorized and directed to initiate condemnation proceedings in the superior court for Santa Cruz County, if necessary to obtain from the owners of the two parcels depicted on Exhibit A hereto the utility easements shown thereon, tendering to the Court on behalf of the owners the above amounts previously offered to the owners pending completion of an appraisal of both easements, and to proceed with said action on an expedited basis to obtain legal possession of the two easements as soon as possible.
2. City Staff are directed to take such further actions reasonably necessary to give effect to this Order.

PASSED, ADOPTED, AND APPROVED by the Council of the City of Nogales, Arizona, this 18th day of February, 2020.

Arturo R. Garino, Mayor

ATTEST:

APPROVED AS TO FORM:

Leticia Robinson, City Clerk

Michael Masee, City Attorney

STAFF SUMMARY

SUBJECT: Authorizing the City Attorney to initiate condemnation proceedings in the superior court if necessary, to obtain sewer easements for a new sewer main construction project

BACKGROUND: The sewer main draining the southern side of Western Avenue, which crosses Grand Avenue and passes under the Alamos Grand Plaza through the El Dorado Motel parking lot to the IOI, has completely collapsed and needs to be rebuilt.

After studying various possible alternative routes, the preferred option is to cross Grand Avenue in a new location slightly to the south of the old alignment, then across the northern 15 feet of the old Bud-Get Inn parcel, which is now vacant, and then north behind the Alamos Grand Plaza on the El Dorado Motel parcel to connect with the old alignment, and rebuild the sewer from that point to the IOI within the old alignment.

City staff have been negotiating with the two owners, Karime Gutierrez, who owns the parcel immediately to the south of the Alamos Grand Plaza and which is now vacant land, and Arun Patel, as president of NASPP, Inc., the owner of the El Dorado Motel parcel. Staff has offered \$5,000 and \$10,000 to the owners, respectively, which staff believes is more than what an appraisal of the two easements would determine to be fair market value for the two easements. Nevertheless, neither owner has agreed to dedicate the easements.

Time is of the essence in this matter because the interim solution, pumping wastewater across Western Avenue, is costly.

The City Attorney is therefore requesting authorization and direction to initiate a condemnation action, if necessary, to obtain from the two owners the required easements to allow the construction project to go forward.

TOTAL COST OF PROJECT(S): \$5,000 and \$10,000, respectively, from the sewer reserves line item of FY20 budget.

STAFF RECOMMENDATION: Adopt order as presented.

SUGGESTED MOTION:

"I move to approve Order No: 2020-02-007"

Edward B. Johnson

Edward B. Johnson, City Manager

2/14/2020