



Item Number: 21

City Council / Board of Directors

Written Communications

Meeting of: July 16, 2024

Submitted By:

Keith C. Metzler, City Manager

Subject:

Grant of Easement and Agreement – National Railroad Passenger Corporation (“Amtrak”)

Recommendation:

That the Honorable City Council:

- (1) Approve the Grant of Easement and Agreement by and between the City of Victorville and Amtrak; and
- (2) Authorize the execution thereof by the City Manager.

Fiscal Impact:

There is no fiscal impact associated with this item.

Strategic Plan Goal:

This item aligns with Strategic Plan Goal A, Financial Sustainability by reducing expenses and fostering fiscal health through disciplined long-term planning and Goal E, Invest in Infrastructure by supporting the continued operation of the Victorville Amtrak Station and sustaining a passenger rail transportation center for the City and region.

Background:

On or around June 1990, the City entered into a lease agreement (the “Original Lease”) with the National Railroad Passenger Corporation, more commonly known as Amtrak, to lease a portion of the former Forrest Park Property (the “Property”, APN 0478-172-19). The leasehold area, referred to as the Amtrak Lease Area, was comprised of ±28,400 square feet for the purposes of constructing and operating a passenger rail service station and shelter known as the “Victorville Amtrak Station”, and parking lot.

The Original Lease provided Amtrak with a ten (10) year term, with four (4) five-year renewal options, and required Amtrak to reimburse the City for its pro-rata share of utilities. The City would be responsible for the maintenance and repair of the shelter,

including weed abatement, graffiti removal and related labor costs. The City was also responsible for maintaining all sidewalks, driveways, and the parking lot. Unfortunately, under the Original Lease, there were no provisions for payment of rent by Amtrak.

The Original Lease also required that the City contract with Atchison, Topeka and Santa Fe Railway, now known as Burlington Northern Santa Fe Corporation ("BNSF"), for the use of BNSF's property which would serve as an easement to the Victorville Amtrak Station. In exchange, BNSF charged the City an annual rent fee, which is currently \$12,557. Based on the BNSF Lease the rent increases annually, according to the Consumer Price Index, which has been averaging $\pm 3\%$. Attachment A depicts the Forrest Park Property, the location of the Victorville Amtrak Station, and the easements.

In July 2006, the City and Amtrak amended the Original Lease to reduce Amtrak's Lease Area from $\pm 28,400$ to $\pm 3,790$ square feet. Subsequently, in August 2008, the former Victorville Redevelopment Agency (the "RDA") purchased the Property from the City as the property was becoming an area for illegal activity, nuisance, and blight. As the RDA was conducting a land assembly in Old Town, for the revitalization of the area, staff believed that transferring the Property to the RDA could allow for an opportunity to address the issues at the Property. Upon transferring title of the Property to the RDA, the administration of the Original Lease and use of the Property was transferred to the RDA through the execution of a Second Amendment to the Original Lease. The Second Amendment also extended Amtrak's term until June 2015. However, as a result of the dissolution of the redevelopment agencies throughout the State of California, title to the Forrest Park Property was transferred back to the City in August of 2021.

Discussion:

In May 2018, the need to update Amtrak's Lease beyond its expiration of June 2015 arose, as the U.S. Department of Justice ("DOJ") initiated an inquiry as to the adequacy of and responsibility for making various Americans with Disabilities Act ("ADA") improvements to the Victorville Amtrak Station. Around December 2020, the DOJ filed a complaint against Amtrak to enforce ADA improvements with respect to various passenger rail station facilities across the nation, including the Victorville Amtrak Station.

Shortly after the complaint was filed by the DOJ, Amtrak and City staff initiated negotiations to formalize a new lease, as the previous agreement had expired, which would include the reduction of expenses incurred by the City and would allow Amtrak to make the necessary ADA improvements. However, as the revitalization of Old Town remains a priority, City staff determined that providing Amtrak with an easement agreement would provide greater benefits including satisfying Amtrak's need to lease a portion of the Property, and allowing for the ADA improvements, but would also allow the City to identify a future use and user for the remainder portion of the Property. Additionally, the City would be able to terminate the BNSF Lease as Amtrak would retain an easement directly with BNSF, no longer requiring the City to maintain a lease on Amtrak's behalf. Therefore, staff has worked with the City's legal counsel by preparing the attached Grant of Easement and Agreement for your review and consideration.

The Grant of Easement and Agreement, Attachment B, between the City of Victorville (“Grantor”) and National Railroad Passenger Corporation (“Grantee”), provides the Grantee with an exclusive parking easement and a non-exclusive access easement over and across the northern side of the former Forrest Park Property. The exclusive parking easement will be for Amtrak’s customers and visitors, allowing them to have parking access to the Victorville Amtrak Station, and the non-exclusive easement will serve as a common access or roadway easement for Amtrak and any future user of the Forrest Park Property.

As the Grantee to the exclusive parking easement, Amtrak will be able to make the ADA improvements to the Victorville Amtrak Station and will be required to maintain this area without the support of the City. The City shall remain responsible for the non-exclusive easement area, which includes routine road maintenance and repairs when necessary. Part of the significant terms included in the Grant of Easement and Agreement includes Amtrak maintaining standard insurance and liability coverages to protect the City and its entities against damages caused by Amtrak or its contractors, agents, etc., and allowing the Grantor to terminate its exclusive parking easement any time after non-use for a continuous twelve (12) months, and reverting this portion back to the City through the execution of a quitclaimed deed.

This Grant of Easement and Agreement will significantly reduce the costs associated with the maintenance of the Victorville Amtrak Station, an annual savings calculated at approximately \$39,209. Once the Grant of Easement and Agreement is recorded, Amtrak can then make the necessary ADA improvements at the Victorville Amtrak Station.

Staff is seeking that the Honorable City Council approve the Grant of Easement and Agreement by and between the City of Victorville and Amtrak, and execution thereof by the City Manager, and upon approval will record the Grant of Easement and Agreement with the San Bernardino County Assessor-Recorder's Office.

Staff remains available for any questions you may have.

Attachments: A. Former Forrest Park Property
B. Grant of Easement and Agreement