



# City Council Report

**Date:** November 7, 2022  
**To:** City Council  
**Through:** Marc Heirshberg, Deputy City Manager  
**From:** Beth Huning, City Engineer  
Marc Ahlstrom, Assistant City Engineer  
**Subject:** Authorizing acquisition by the City of real and personal property rights for rights-of-way and easements, including through eminent domain, for the Val Vista Drive Improvements, US 60 to East Pueblo Avenue Project (CP0062).  
Council District 2

## Purpose and Recommendation

The purpose of this report is to consider staff recommendation to authorize staff to acquire certain parcels of land and land rights necessary for Val Vista Drive Improvements, US 60 to East Pueblo Avenue Project, CP0062 (Project). Currently, staff is meeting and negotiating with property owners. However, to avoid construction delays, staff is requesting authorization to acquire certain parcels through eminent domain, if necessary. It is the City's intent to continue negotiating with the property owners with full expectations that a settlement will be reached. Our goal is to acquire the properties through negotiations with the property owners.

## Background

The Val Vista Drive Improvements Project from US 60 to East Pueblo Avenue includes new pavement widening, curb, gutter, sidewalk improvements, ADA compliant ramps/driveways, bicycle lanes, traffic signals, storm drains and catch basins. Also, included are improvements to the City's gas infrastructure, Salt River Project (SRP) and City of Mesa aesthetic improvements and upgrades to existing underground utilities.

Engineering will use the traditional bidding process. Construction for the overhead to underground electrical is expected to begin in the spring of 2023 and for the roadway improvements summer 2023.

## Discussion

There are 10 parcels (10 owners) that certain rights-of-way and easements are needed for this project. Public utilities and facilities easements (PUFE) are necessary for the

new six (6) foot sidewalks, ADA sidewalk improvements at driveway locations and right-of-way for the ADA ramps at street corners. Public utility easements (PUE) are necessary for SRP electric improvements and temporary construction easements for work areas behind rights-of-way and easements during construction. Easements and right-of-way have been minimized to reduce impacts to properties.

Real Estate Services began appraising the properties in August of 2022. Written offers were made to each of the owners in September 2022. The City has offered Fair Market Value for the needed right-of-way and/or easements as established by appraisal.

The City is required by law to pay what is called “just compensation” for the land needed for this project. “Just compensation” includes the value of the land and any improvements being taken and damages equal to any diminishment in value of the remaining property resulting from the acquisition.

To avoid construction delays, staff seeks Council approval to start eminent domain court proceedings on those parcels where the City and property owners have not yet reached an agreement. Staff will continue to work with the individual property owners and attempt to reach an agreement as to the just compensation amount for each remaining land right. Filing the court actions will allow the City to seek the Order of Immediate Possession (OIP), so that the Project may proceed while the negotiations continue a parallel course. These negotiations are often lengthy and are complicated by lender issues and/or title encumbrances. Obtaining an OIP is necessary to avoid costly construction delays.

There is overhead and underground electrical relocation as part of the Project for SRP. SRP will not allow the construction to begin on those improvements until the necessary easements are acquired or the City has an OIP from the Court.

A Webinar Public Meeting regarding the Project was held on October 18, 2022, for the surrounding neighborhood. The meeting was coordinated by the Engineering Department and allowed neighbors the opportunity to gain information on the scope/timeline of the Project and ask questions.

Attached to this Council Report is Exhibit A, that shows the affected properties where staff has made an offer to the property owner and has not reached an agreement. It also includes a chart with the owner’s name, address, the type of property right(s) needed for this Project and the status of the acquisition.

**Alternative**

The Project cannot begin as scheduled if the use of eminent domain is not authorized when necessary to obtain immediate possession.

**Fiscal Impact**

The recommendation does not have a fiscal impact on the overall cost of the Project.

**Concurrence**

The Engineering and Transportation Departments concur with this recommendation.