



Item No. 5 Town of Atherton

ATHERTON CHANNEL DRAINAGE DISTRICT STAFF REPORT – CONSENT AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

THROUGH: MICHAEL KASHIWAGI, COMMUNITY SERVICES DIRECTOR

FROM: MARTY HANNEMAN, CITY ENGINEER

DATE: SEPTEMBER 21, 2016

**SUBJECT: APPROVE A RESOLUTION TO AUTHORIZE THE CITY
MANAGER TO EXECUTE THE GRANT OF EASEMENT FOR A
PORTION OF THE ATHERTON CHANNEL ON BEHALF OF
THE ATHERTON CHANNEL DRAINAGE DISTRICT**

RECOMMENDATION

Approve a resolution to authorize the City Manager to execute the Grant of Easement on behalf of the Atherton Channel Drainage District.

BACKGROUND

The Belbrook Culvert Repair project was identified in the 2015 Storm Drainage Master Plan Update as a critical project. The culvert bottom has rotted out and absent repair would result in failure of the Belbrook Road crossing of the Atherton Channel. The project was included in the FY 2015/16 Capital Improvement Program for design and permitting and has been identified in the FY 2016/17 Capital Improvement Program for construction. The project includes a repair of the culvert under Belbrook as well as bank and stream restoration work immediately upstream and downstream of the culvert. Permits for the work have been processed through Regional Water Quality Control Board, Army Corps of Engineers and California Fish and Wildlife. The location of the work within a waterway requires all work be completed by October 15, 2016.

A Right of Entry to provide construction access onto the property was executed on September 1, 2016 and terminates on December 31, 2019 for temporary access; however, there is currently no easement to allow access onto the property for long-term maintenance of the channel.

ANALYSIS

The Atherton Channel is a critical storm drain water course. This easement provides access to perform long-term maintenance of the channel is vital to allow unobstructed flow of waters and to allow safe access residents and emergency services is critical to a safe community.

The easement is consistent with other easements already in existence up and down the Channel and on the connecting sides of the new easement. Staff research identified the easement gap as the project moved through design. The Town has already been maintaining the area of the easement and has historically.

FISCAL IMPACT

Property owners is granting the easement at no cost to the Atherton Channel Drainage District.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

ATTACHMENT

Resolution No. 16-xx Authorization for the City Manager to Accept Grant of Easement

Easement and Agreement for Grant of Easement – 2 Belbrook Way

Resolution 16-XX

**A RESOLUTION OF THE ATHERTON CHANNEL DRAINAGE DISTRICT
AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT OF EASEMENT
FOR THE PURPOSE OF PROVIDING STORM WATER DRAINAGE AND FLOOD
CONTROL IN ATHERTON**

The Atherton Channel Drainage District hereby resolves as follows:

WHEREAS, Section 27281 of the Government Code of the State of California, requires that deeds or grants conveying an interest in real property to political corporations or political agencies must be accepted by the Grantees prior to being recorded; and

WHEREAS, said Section 27281 provides a method whereby an officer or agent may be designated by the political corporation or agency to accept such deeds or grants on its behalf; and

WHEREAS, the Grantor is providing the easement at no cost to the Atherton Channel Drainage District; and

WHEREAS, the Atherton Channel is a critical storm drain water course. The easement provides access to perform long-term maintenance of the channel is vital to allow unobstructed flow of waters and to allow safe access residents and emergency services is critical to a safe community; and

Now, therefore, be it resolved by the City Council of the Atherton Channel Drainage District that City Manager, George Rodericks, of the Atherton Channel Drainage District, is hereby authorized to accept, on behalf of the Atherton Channel Drainage District, all deeds or grants conveying any interest in or easement upon real estate to Atherton Channel Drainage District.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Atherton Channel Drainage District at a regular meeting thereof held on the 21st day of September, 2016, by the following vote:

AYES: **COUNCILMEMBERS:**
NOES: **COUNCILMEMBERS:**
ABSENT: **COUNCILMEMBERS:**

Elizabeth Lewis, Mayor
Town of Atherton

ATTEST:

Theresa N. DellaSanta, City Clerk

APPROVED AS TO FORM:

William B. Connors, City Attorney

EASEMENT AND AGREEMENT FOR PURPOSES OF PROVIDING STORM WATER
DRAINAGE AND FLOOD CONTROL IN ATHERTON

AGREEMENT dated _____ by and between David Scacco and Megan Scacco, herein called "Grantor" and Atherton Channel Drainage District, a public agency, herein called "Grantee";

WITNESSETH:

for and in consideration of easements and/or agreements for purpose of providing storm water drainage and flood control in Atherton Channel;

1. Grantor does hereby grant and convey to Grantee, its successors and assigns, the following easement over, across and upon the real property located within the Atherton Channel Drainage District in the County of San Mateo, State of California, more particularly described in Exhibit "A" attached to and made a part hereof, for the following purposes:

a. To improve the Atherton Channel and provide and maintain therein storm water drainage and flood control, including drains, conduits, pipelines, culverts, and other works reasonably necessary for storm water drainage and flood control, but not including pumping stations, overhead power lines, or other works above ground level.

b. To relocate, at the discretion of the Grantee, its agents, successors or assigns, any utility lines on the property of Grantor which may actually obstruct the Atherton Channel or actually interfere with its, improvement or use.

c. To excavate, remove, or alter structures, bridges, culverts, drains or other materials or works thereon as may be found reasonably necessary in exercise of Grantee's rights under this indenture. Except as otherwise provided, said right-of-way and easement

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shall include the right to operate and maintain flood control projects of which said real property is or may become a part, whether the said project is that of the Atherton Channel Drainage District, the San Mateo County Flood Control District, or other properly constituted flood and storm drainage control authority, provided that any bridge not actually obstructing the channel or directly interfering with its improvement or use which is nevertheless removed shall be restored.

2. The consideration being given as recited above is in full discharge of and payment for the above-conveyed rights in the said real property. Grantor does hereby waive all claim or claims for any and all compensation or damages for and on account of the location, establishment, and construction of flood control works upon the said real property in accordance with the provisions hereof, provided that this shall not be interpreted as a waiver of any claim for damages or costs resulting from negligence or other improper conduct of Grantee or its agents in the construction, maintenance, or operation of such flood control works, and Grantee agrees to indemnify and hold Grantor harmless from said damages and costs and from all damages, costs or liabilities arising from Grantee's use or improvement of said real property.

3. There are expressly reserved to Grantor, or Grantor's successors in interest, the following rights:

- a. The right to plant and landscape the area of said easement.
- b. Access over, along, and across any portion of said easement and the right to construct bridges and provide other reasonable methods of access.

Provided, however, that exercise of the rights reserved in this paragraph three shall not actually obstruct any portion of the Atherton Channel or directly interfere in any way with its

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future improvement or use by Grantee, and shall be subject to the provisions of paragraph two of this easement and agreement with respect to waiver of claims for compensation or damages for and on account of the location, establishment, and construction of flood control works.

4. Grantee agrees to bear all costs and satisfy all obligations relating to its use or improvement of said real property.

IN WITNESS WHEREOF, the parties hereto have executed this indenture on the day and year hereinabove written.

TOWN OF ATHERTON

DAVID SCACCO

By: _____

By: _____

City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

MEGAN SCACCO

By: _____

By: _____

City Attorney

Date: _____

ATTEST:

By: _____

City Clerk