

Attachment 6

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The Honorable Chris Canning, Mayor of Calistoga
and Members of the Calistoga City Council
City Hall
1232 Washington Street
Calistoga, CA 94515

Re: Berry Street Replacement Bridge Project

Dear Mayor Canning & Councilmembers:

We represent Kathleen and George Meyer, who own and reside at 1341 Berry Street, Calistoga, CA (APN: 011-171-010; the "Meyer Property"). We are writing to you regarding your consideration of the Resolutions of Necessity to Acquire Property by Eminent Domain for the Berry Street Replacement Bridge Project (the "Project"), which will directly impact the Meyer Property. The City has not sufficiently located the boundaries of the Meyer Property and, as a result, it is likely that the City is taking more property from the Meyers than what is described in the Resolutions of Necessity. As a result, we request that the Council continue its review of the item on this evening's agenda until the City can properly ascertain the boundaries of the Meyer Property and the City's adjoining right-of-way area.

The Project documents included an appraisal of the Meyer Property (the "Appraisal"), which is required for all eminent domain proceedings. (The Appraisal is attached as Exhibit A and included in "Attachment 2" to the Council's Staff Report for this agenda item.) The Appraisal states that the Meyer Property is approximately 4,910 ft² of which "approximately one-third . . . is located in the Napa River." The City requests a temporary construction easement ("TCE") over a 50 ft² portion of the Property for a 24-month period. According to the Appraisal, the TCE is not located on the usable area of the Property because it is "located entirely within the confines of the Napa River"—that is, "no portion of the [TCE] is located above the top of the bank."

The Appraisal implies that it will access the TCE through the City's existing right of way along the north side of Berry Street that is contiguous to the Meyers Property. However, it provides no evidence that this area is, in fact, a right-of-way area. Instead the Appraisal states that site improvements on the Meyer Property—including a stone wall and wood fence line defining the yard space, landscaping, and a storage structure maintained by the Meyers (the "Improvements")—appear to encroach within the right-of-way and that City must remove those improvements. However, the Appraisal concedes that the specific location of the right-of-way

area it adopted for the analysis and, relatedly, whether the Improvements are actually encroachments in the right of way area is an “**extraordinary assumption**.” (Emphasis added.) Nevertheless, the Appraisal concludes that the City’s use of the TCE has a nominal value of \$2,000 as the TCE is located entirely within the Napa River and that there “are no site improvements located in the [TCE] that contribute value to the larger parcel.”

The City should not be using “extraordinary assumptions” when it comes to the taking of private property. If the “extraordinary assumption” regarding the boundaries of the right-of-way area is incorrect, and we believe it is, the City should conduct a proper survey of the right-of-way and the Meyer Property boundary.

The taking of the Meyer Property may be much more significant than as currently proposed in which the Meyers are owed more than just “nominal consideration.” For instance, the Project may result in the permanent taking of the Meyer Property that will forever change their front and side yard. Additionally, the destruction and replacement costs for the stone wall, storage structure, fence, and landscaping will cost more than \$2,000. The diagrams for the Project also indicate that the City will use other portions of the Meyers’ yard where they will remove trees. These uses of the Meyer Property have not been valued at all, which is an obvious mistake.

The Meyers understand the issues with Berry Street Bridge as currently configured and they do not intend to block the City from moving forward with the Project. However they are asking for fairness during this process.

Before the City moves forward with the Resolution of Necessity, it is critical that the City ascertain the correct boundary lines—not only so the Meyers are properly compensated for the taking, but so the Project can proceed as originally designed. Due to the inability to properly support the location of the right-of-way boundaries at this time, we request that the Council continue its consideration of the Resolutions of Necessity this evening. The extra time will allow the City to properly understand the boundaries of the Meyer Property and the portions thereof that should be subject to eminent domain under the Project.

Thank you for your attention to this matter.

Sincerely,

DICKENSON, PEATMAN & FOGARTY


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