

# Agenda Report

TO: CITY COUNCIL

July 19, 2004

FROM: City Manager

SUBJECT: Condemnation of Right-of-Way for the State Route (SR) 710 Mitigation Project – Lake Avenue at Walnut Street Intersection Mobility Improvement Project ("Project")

## RECOMMENDATION:

1. That the City Council conduct a hearing on whether a Resolution of Necessity should be adopted, as required by Code of Civil Procedure Section 1245.220, for the commencement of an eminent domain proceeding to acquire a portion of the property located at 160 North Lake Avenue ("Subject Property") as described and depicted in Exhibit "A."
2. That the City Council receive testimony from those potentially affected by the proposed condemnation of the Subject Property.
3. That following the close of the hearing, the City Council adopt the proposed Resolution of Necessity by at least a six-eighths vote (Section 1245.240 of the Code of Civil Procedure requires a two-thirds vote) for the acquisition of the Subject Property (attached hereto as Exhibit "B"), if the City Council finds the following:
  - A. That the public interest and necessity require the proposed Project.
  - B. That the proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
  - C. That the Subject Property is necessary for the proposed Project.
  - D. That the parcel being acquired herein is being taken for public use and purposes under the authority of:
    - (1) Article 1, Section 19 of the California Constitution
    - (2) Code of Civil Procedures Section 1230.010 *et seq.*
    - (3) Government Code Section 37350.5.

- E. That the offer required by Section 7267.2 of the Government Code has been made to the owner of record or the offer has not been made because the owner cannot be located with reasonable diligence.
  - F. That all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Subject Property have been complied with by the City.
4. That the City Attorney through staff or outside legal counsel commence proceedings for the acquisition of the Subject Property, and to take such action as needed to secure fee title to the Subject Property for the City.
5. That the City Attorney through staff or outside legal counsel commence proceedings for securing possession and use of the Subject Property.

**BACKGROUND:**

The Capital Improvement Project for the SR 710 Mitigation Project was approved by the City Council on June 17, 2002. The SR 710 Mitigation Project includes eight individual transportation improvement projects designed to reduce congestion and delay due to the gap in the SR 710 Freeway. The Lake Avenue at Walnut Street Intersection Mobility Improvement ("Project") is one of the eight improvement projects. The Project involves roadway widening to construct an exclusive right turn lane.

Specifically, the Project includes the widening of the east side of Lake Avenue south of Walnut Street to construct an exclusive northbound to eastbound right turn lane. This requires the acquisition of a portion of the property located at 160 North Lake Avenue currently improved with a Ralphs Market.

The City has made an offer to purchase the Subject Property, as required by Section 7267.2 of the Government Code, to the property owner of record. (Attached hereto as Exhibit "C.")

The City has given written notice by certified mail sent at least 15 days prior to the date of the hearing of its intention to adopt a Resolution of Necessity to the owner of the Subject Property as his name and address appear on the last equalized Los Angeles County assessment roll. (Attached hereto as Exhibit "D.") The notice advised the owner of record that he shall have the right to appear and be heard on the matters cited in Section 1240.030 of the Code of Civil Procedure, and further advised that the failure of the owner of record to file a written request to appear and be heard within 15 days of the mailing of said notice will result, by law, in a waiver of his right to be heard.

The City published a Public Notice in the Pasadena Star News on July 2, 2004, allowing 15 days prior notice from the start of publication to the date of the hearing of its

intention to adopt a Resolution of Necessity to acquire the Subject Property by eminent domain, and authorizing the condemnation of said parcel. The Public Notice advised that interested parties shall have the right to appear and be heard on the matters cited in Section 1240.030 of the Code of Civil Procedure, and further advised that a written request to appear and be heard must be filed within 15 days of the publication of said notice.

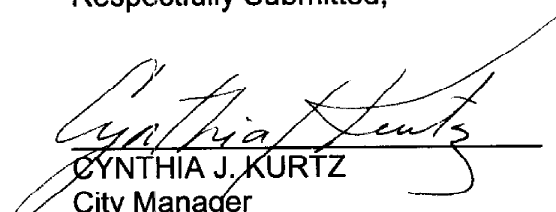
A public hearing will be held before the City Council tonight considering the adoption of a Resolution of Necessity authorizing the condemnation of the Subject Property to complete one of the eight components of the SR 710 Mitigation Project.

The City has retained the law offices of Demetriou, Del Guercio, Springer & Francis, LLP to file the eminent domain action following the adoption of the Resolution of Necessity.

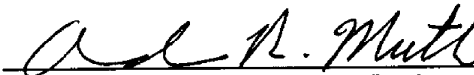
FISCAL IMPACT:

Sufficient funding is available for the acquisition of the Subject Property in Budget Account No. 73127, Lake Avenue at Walnut Street Intersection Mobility Improvement.

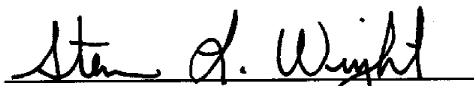
Respectfully Submitted,

  
CYNTHIA J. KURTZ  
City Manager

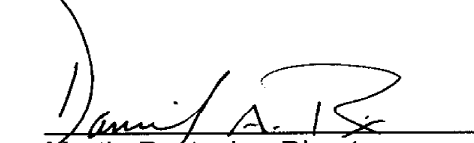
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