

# Agenda Report

**TO: CITY COUNCIL**

**Date:** September 10, 2001

**FROM:** City Manager

**SUBJECT:** Summary Vacation of a Strip of Public Right-of-Way Along the Southeast Corner of Fair Oaks Avenue and Mountain Street (880-898 North Fair Oaks Avenue). The Declaration that this Real Property is Exempt From Section 4.02 of the Pasadena Municipal Code and Authorization to Sell to the Only Adjacent Landowner.

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Adopt a resolution summarily vacating a strip of public right-of-way along the southeast corner of Fair Oaks Avenue and Mountain Street (hereinafter referred to as "the Property"), as described in Exhibit "A" and as shown on Exhibit "B" (Public Works and Transportation Department Drawing No. 5161), pursuant to Section 8331, 8333, and 8334 of the California Streets and Highways Code;
2. Acknowledge that the summary vacation and sale of this strip of right-of-way are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 Existing Facilities, 15304 Minor alterations to Land and 15312 Surplus Government Property Sales;
3. Declare that the Property is a remnant and exempt from Section 4.02 of the Pasadena Municipal Code;
4. Direct that the Property be sold to its only adjoining landowner pursuant to the Pasadena Municipal Code, for the purpose of clearing title to real property owned by landowner, upon payment of a consideration reasonably equal to the City's presumed interest and costs of conveyance, and authorize the City Manager to take all actions necessary to effectuate the sale;
5. Direct the City Clerk to file a Notice of Exemption with the Los Angeles County Recorder; and

**RECOMMENDATION:** Continued

6. Approve a journal voucher recognizing \$13,000 to the Charter Capital Projects Fund, Land Sale, Account Number 7027-302-000000.

**BACKGROUND:**

The owner of the property located at 880-898 North Fair Oaks Avenue, Mountain Fair Oaks Association (the Applicant), has requested to purchase the Property in order to obtain a secured loan on their encroaching office complex.

The Property consists of a ten-foot wide strip of land on the east side of Fair Oaks Avenue at Mountain Street, just north of Painter Street. The Property has a length of approximately 65 feet and contains a total land area of approximately 650 square feet.

In 1972, the City obtained a parcel comprising the southeast corner of North Fair Oaks Avenue and Mountain Street for widening of the street. In 1980, the City sold this parcel, intending to retain the Property as public right-of-way for a possible future street widening.

Critically, in 1989, due to an undetermined error, an office building was permitted and allowed to be constructed on the Property. Rather than dispute fault and ownership, staff is recommending that the Property be summarily vacated and declared remnant in order that title can be cleared for the purchaser of the City parcel and their successors. The Department of Public Works and Transportation no longer has any interest in widening the street, nor in the Property.

Section 4.02.040(B) of the Pasadena Municipal Code ("Code") provides that a release of any real or apparent interest of City made for the purpose of clearing title to real property owned by others, upon payment of a consideration reasonably equal to the City's presumed interest and cost of conveyance is exempt from the other provisions of the Code relative to the sale of surplus land.

An agreement has been reached with the Applicant on the value of the Property consistent with the requirements of the Code and in light of the factors discussed above. Accordingly, staff recommends the adoption of the summary vacation and the sale, on a direct sale basis, to the Applicant, the only adjoining landowner. Processing of the sale is to be administered by staff in accordance with the requirements of the Pasadena Municipal Code relating to the sale of real property.

The Environmental Administrator has determined that the declaration of this property as remnant property and its sale to the adjacent property owner is categorically exempt from CEQA Guidelines sections 15301 Existing Facilities, 15304 Minor alterations to Land and 15312 Surplus Government Property Sales.

**AUTHORITY FOR SUMMARY VACATION:**

Chapter 4 of the California Streets and Highways Code, entitled "Summary Vacation", provides for summary vacations by adoption of a resolution without prior notice.

Vacation of this area may be directed under Sections 8331(a) and (b), 8333(a), and 8334(a) of the California Streets and Highways Code. The vacation takes effect immediately upon the recording of the resolution.

Section 8331 has two conditions, where both must be met during a period of five consecutive years, (1) the portion has been impassable for vehicular travel, and (2) no public money was expended for maintenance on the portion. Both conditions are met.

Section 8333 has three conditions, only one of which must be met: the portion has not been used for its dedicated purpose for a period of five consecutive years preceding the proposed vacation. This condition has been met.

Section 8334 has two conditions, only one of which must be met: the excess right-of-way of street or highway is not required for street or highway purposes. This condition has been met.

If any evidence is presented at the time City Council votes to adopt the resolution which indicates that the portion does not meet any of the requirements of Sections 8331, 8333, or 8334, then that portion should be removed and considered for vacation using other statutory procedures.

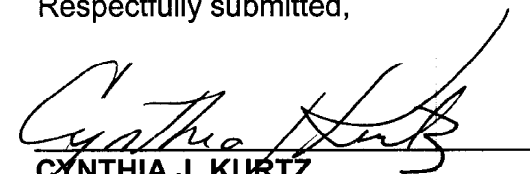
**TAX CONSEQUENCES:**

Facilitating the sale of the adjacent office building will have positive effects on the overall real property tax base.

**FISCAL IMPACT:**

Approval of this action will generate additional revenue to the City in the amount of \$13,000. The funds shall be transferred to account number 7027-302-000000. The applicant has paid the costs for preparing, processing, and recordation of the summary vacation.

Respectfully submitted,



CYNTHIA J. KURTZ  
City Manager

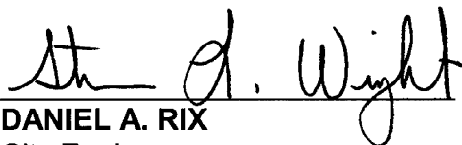
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