



OFFICE OF THE CITY MANAGER

DATE: April 1, 2002
TO: City Council
FROM: City Manager
RE: License Agreement Between the City of Pasadena and SNK Peabody Pasadena LLC, for the installation of Decorative Brick Pavers and a Modified Drive Approach in the Public Right-of-Way at 325 Cordova Street

At the City Council meeting on Monday, March 25, 2002, staff presented a license agreement for approval. The agreement between the City and SNK Peabody Pasadena, LLC is for the installation of decorative brick pavers and a modified drive approach in the public right-of-way at 325 Cordova Street.

Questions were raised by the City Council, directed at the modified drive approach portion of the agreement, as to how the error occurred in construction that would not allow for the 10 foot required clearance for the entrance to the parking/loading area. Concern was also raised as to whether the agreement assured liability to the property owner rather than the City. Finally, City Council was interested in the cost to the developer in order to achieve the 10 foot required clearance at the time the discrepancy was discovered.

At the time it was realized that the entrance to the parking/loading area would not meet the 10 foot required clearance, the developer had invested \$1.5 Million in construction costs. The project was constructed so that the entrance missed this required clearance by several inches. Construction ceased at the time this was discovered in order for a solution to take place. If the developer were required to make modification to the entrance to meet the 10 foot clearance, it would have required major demolition and reconstruction to the project, totaling more than \$2 Million. The City departments worked together with the developer to arrive at a solution that would be in the best interest of the development and address concerns the City may have with regard to drainage. This solution resulted in a modified driveway with the condition of a license agreement and modifications to the structure at the entrance of the parking/loading area.

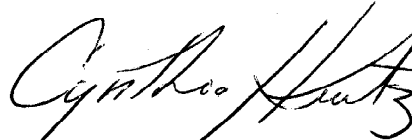
City Council
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As mentioned in the Agenda, with the installation of the depressed drive approach, there is an increased risk of flooding for the parking/loading area. The City, however, is comfortable with this risk for a number of reasons. First, the only storm water runoff that may impact this property is the runoff from Euclid Avenue coming from Green Street. The property to the north, the Convention Center, has an on-site storm drain system that discharges directly into the Los Angeles County storm drain. Thus, there is no surface runoff from this property to Euclid Avenue. Second, the developer has installed two grate drains that extend the full width of the driveway. Both of these are located in a manner that will collect any water prior to entering the subterranean parking/loading area.

To address any risks associated with the installation of a modified drive approach, a specific statement was added to the agreement. Section 12 entitled "Assumption of Risk," paragraph C states "the Licensor assumes no responsibility whatsoever for any damage caused, directly or indirectly, on the private property by the construction of the modified (depressed) drive approach on Euclid Avenue, all such responsibility shall be solely the Licensee's." The City Attorney's office was included in developing this wording and finalizing the agreement and the Liability Claims Coordinator has reviewed the agreement to ensure that the liability of the improvements rests solely with the Licensee. Both are confident that the agreement addresses all of the City's concerns with regard to liability. A copy of the agreement has been attached for your reference.

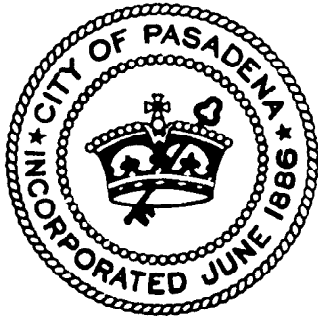
In addition to the above issues, staff has amended the resolution to allow the City Manager to authorize the assignment of the agreement, with the existing terms and conditions, to the successor of the property. SNK Peabody Pasadena LLC is currently in negotiations to sell their property to Metropolitan Life Insurance Company, a New York corporation. The approval of the resolution by the City Council will allow for the assignment of the agreement to the new owner once the sale has taken place.

Respectfully submitted,



CYNTHIA J. KURTZ
City Manager

Attachment



Agenda Report

TO: CITY COUNCIL

Date: March 25, 2002

FROM: City Manager

SUBJECT: License Agreement Between the City of Pasadena and SNK Peabody Pasadena LLC, for the Installation of Decorative Brick Pavers and a Modified Drive Approach in the Public Right-of-Way at 325 Cordova Street

RECOMMENDATION:

It is recommended that the City Council adopt a resolution approving a License Agreement with SNK Peabody Pasadena LLC, located at 325 Cordova Street, with the terms and conditions as set forth in the background section of this report, and authorize the City Manager to execute and the City Clerk to attest, said License Agreement, on behalf of the City of Pasadena.

BACKGROUND:

In conjunction with the construction of the multi-level residential complex at 325 Cordova Street, the developer, SNK Peabody Pasadena LLC ("Licensee"), has requested a license agreement to install decorative sidewalk along Cordova Street frontage of the subject property. In addition, the developer has requested a license agreement for a modified drive approach. During the construction phase of this development, it was determined that the ground level entrance to the complex at the Euclid Avenue frontage was not constructed according to the approved plans and could not meet the height clearance of 10 feet as required by the Building Code. In order to avoid major design and construction revisions to the pre-approved building plans, the developer requested approval to construct a modified, depressed, drive approach to meet the correct height requirement.

Because of the potential for high storm water runoff at this location, a standard drive approach is needed to contain the runoff and prevent the flooding of the subterranean parking area. By depressing the drive approach to provide the required height clearance, the potential for flooding is substantially increased. Rather than redesign and reconstruct a portion of the building, the developer has agreed to execute a license agreement relieving the City of liability in the event that the subterranean parking area floods as the result of the depressed drive approach.

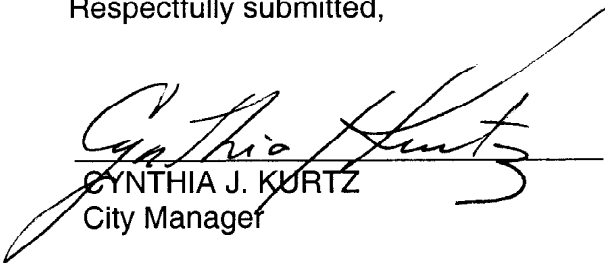
A license agreement, authorizing encroachment and setting forth the terms for maintenance and liability, has been executed by the developer and is ready for approval by the City Council. This matter is categorically exempt from CEQA (Section 15301, Class 1, Subsection (C)) being a minor alteration to existing public sidewalk.

The proposed License Agreement areas are described in the Legal Description (Exhibit "A") and are shown on the City of Pasadena Public Works and Transportation Drawing No. 5173 (Exhibit "B"). Both documents are attached.

FISCAL IMPACT:

There is no fiscal impact. Applicant has paid for the staff costs to prepare and process the license agreement documents.

Respectfully submitted,




CYNTHIA J. KURTZ
City Manager

Prepared by:



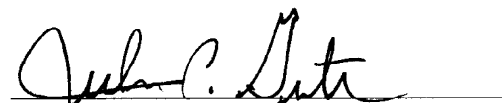
Bonnie L. Hopkins
Principal Engineer

Reviewed by:



for Steven L. Wright
Acting City Engineer

Approved by:



Julie A. Gutierrez, Acting Director
Public Works and Transportation

BLH:bs

Attachments