

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** May 3, 2004

**FROM:** City Manager

**SUBJECT:** Resolution approving a Hazardous Substances Indemnification Agreement between the City of Pasadena and the State of California for State Route 110 adjacent to the Raymond Avenue to SR 110 Connector Project

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution approving a Hazardous Substances Indemnification Agreement between the City of Pasadena and the State of California for State Route 110 adjacent to the Raymond Avenue to SR 110 Connector project.

**BACKGROUND:**

The Raymond Avenue to SR 110 Connector project is one of the eight projects included in the State Route (SR) 710 Mitigation Project, which was approved by City Council on June 17, 2002. The eight SR 710 Mitigation projects, federally funded through transportation bill H.R. 5394, were selected based on their potential to improve mobility in those areas identified as impacted by the gap in the 710 freeway.

The project scope includes the widening of Glenarm Street from Fair Oaks Avenue to Arroyo Parkway/SR 110, the construction of an at-grade free-right-turn lane onto southbound SR 110 from eastbound Glenarm Street, and construction of an auxiliary lane along southbound SR 110 from Glenarm Street to the State Street Off-Ramp. The proposed auxiliary lane will require the acquisition of right-of-way from the Pasadena Water and Power Glenarm Plant property and the transfer of the acquired right-of-way to the California Department of Transportation (Caltrans).

A Phase II Environmental Site Assessment (ESA) was conducted to assess the presence or absence of petroleum hydrocarbon and/or lead impacted soil within the land to be acquired for the construction of the proposed project. An ESA Report dated October 2, 2003 was prepared to document the findings and conclusions of the site investigation. A summary of the ESA findings and conclusions is attached hereto as Exhibit "A." Attached Exhibit "B" is a site plan showing the soil boring locations and attached Exhibit "C" includes a "Fence Diagram" of the soil samples.

Based on the results of the ESA, Caltrans has requested that the City indemnify the State from future liability resulting from the presence of hazardous materials under the proposed Caltrans right-of-way. A copy of the Draft Hazardous Substances Indemnification Agreement prepared by Caltrans is attached hereto as Exhibit "D."

After review of the ESA report, staff has thoroughly analyzed and considered several options to address the presence of hazardous materials within the proposed Caltrans right-of-way. The options that were considered are (1) Do not build the project; (2) completely remove the contaminated soil within the proposed Caltrans right-of-way; and (3) partially remove the contaminated soil only as necessary to construct the proposed project improvements and enter into the indemnification agreement with Caltrans.

The “no build” option would eliminate a key component of the SR 710 Mitigation Project. Several of the eight SR 710 Mitigation projects are designed to encourage the use of the Raymond Avenue, Arroyo Parkway and Fair Oaks Avenue mobility corridors. Eliminating the Raymond Avenue to SR 110 Connector project would reduce the appeal of these mobility corridors in which substantial funds are being invested.

Complete removal of the hazardous waste within the Caltrans right-of-way will create several critical issues, summarized as follows:

- The federal funding for the project cannot be used to remove hazardous materials that do not directly conflict with the project improvements. The proposed project will require excavations to approximately 2 feet deep. Any contaminated soil within the project excavation area will be removed and disposed of in accordance with applicable federal and state regulations. However, since the majority of contaminated soil exists at depths of 10 to 30 feet, the removal of the hazardous materials at these depths would be considered betterment and therefore is not eligible for federal reimbursement.
- Currently there is no available City funding to pay for the removal of hazardous materials beyond what is necessary for the project. The estimated cost to remove the hazardous materials within the proposed Caltrans right-of-way ranges from \$1.5 to \$3 million. Additionally, this cost could significantly increase if it were determined during site remediation that excavation beyond the proposed Caltrans right-of-way would be required to adequately clean the site.
- Excavations to 30-foot depths would be required and would create major impacts to SR 110 and the nearby local streets. Additionally, excavations to 30-foot depths would potentially require a temporary closure of the Jacobs Engineering parking lot at the southwest corner of Glenarm Street and SR 110.
- The major impacts to the site, SR 110 and the Jacobs parking lot would likely invalidate the current Categorical Exemption/Categorical Exclusion (CE/CE) environmental document and require a Mitigated Negative Declaration/Finding of No Significant Impact (MND/FONSI). This would significantly extend the project schedule; therefore, the project would not meet the current funding lapse deadline of September 30, 2004.

Constructing the project as proposed allows for the partial clean-up of the contaminated soil and entering into an agreement with Caltrans to potentially clean-up the remaining contaminated soil at some future date depending on Caltrans planned improvements for SR 110. Currently, Caltrans has no plans to improve SR 110 in the project vicinity. Further, it is unlikely that Caltrans would

construct any future improvement within the proposed SR 110 right-of-way that would require excavations deep enough to disturb the contaminated soil.

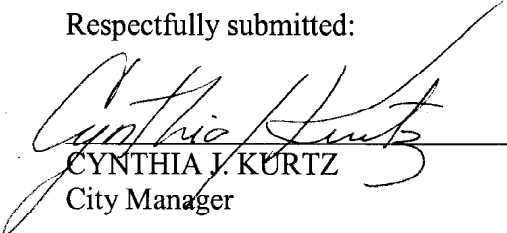
Because the no-build option (Option 1) would reduce the overall effectiveness of the SR 710 Mitigation project and Option 2 is infeasible under the current schedule and without significant additional funding, staff recommends Option 3. Partially removing the contaminated soil as necessary to construct the proposed project improvements and entering into the indemnification agreement with Caltrans (Option 3) is recommended because the absence of funding to clean the site and the schedule impacts would essentially end the project if the City does not enter into the agreement. Additionally, removal of the hazardous materials now does not guarantee that more hazardous materials will not migrate to the cleaned soil in the future.

As mentioned in Exhibit "A", *Summary of Findings and Conclusions from the Phase II Environmental Site Assessment*, the presence of hazardous materials is primarily a result of two former underground storage tanks on the Pasadena Water and Power property located near the proposed auxiliary lane. Thus, the City is responsible for the existing hazardous materials with or without the indemnification agreement. By entering into the indemnification agreement with the State, the City is not assuming any more liability for the hazardous materials than already exists.


**FISCAL IMPACT:**

There is no immediate fiscal impact to enter into the Hazardous Substances Indemnification Agreement with the State. Future fiscal impacts are unknown.

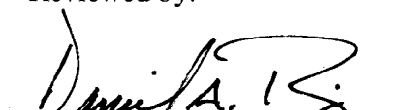
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