

DATE ISSUED: October 29, 2003

REPORT NO. 03-217

ATTENTION: Honorable Mayor and City Council
Docket of November 3, 2003

SUBJECT: Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway

REFERENCE: Resolution 298344 dated September 2, 2003

SUMMARY

Issue - Should the Real Estate Assets Department execute condemnation proceedings to acquire fee title to property interests in a portion of Parcel 5 of Parcel Map 17051 and a portion of Lot 6 of Section 5, Township 15S, Range 3W, SBM more particularly described on the attached Right-of-Way Drawings B-19726 pages 1-4 and B-19727 pages 1-4?

Manager's Recommendation - Authorize condemnation proceedings and a 30-day Order of Immediate Possession to acquire all necessary property rights required for the extension of Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway.

Other Recommendations - Authorize the additional expenditure of \$400,000 to supplement the authorized expenditure approved in Resolution 298344 dated September 2, 2003 as required for the condemnation, property rights, labor, title, and miscellaneous costs.

Fiscal Impact – Funds for the above action are available in CIP #52-676.0, Mira Sorrento Place - Scranton Road to Vista Sorrento Parkway Road Project and from Fund #79006, Mira Mesa Facilities Benefit Assessment (FBA).

BACKGROUND

Mira Sorrento Place- Scranton Road to Vista Sorrento Parkway Project (the “Project”) consists of widening the existing two-lane 560 feet portion (40' road width, 55' right-of-way) of Mira Sorrento Place to a four-lane collector (72' road width, 92' right-of-way), and extending the road by 1,160' to intersect with Vista Sorrento Parkway at the existing on/off ramps to the Interstate 805 freeway in accordance with the community plan. The construction of the Project will provide access to Scranton Road from I-805 which will reduce the traffic volume at the Mira Mesa Boulevard and Scranton Road intersection and improve traffic circulation. The Project includes the relocation of existing underground and above ground utilities within the SDG&E owned utility easement that runs across the proposed Project. The utilities relocation consists of relocating SDG&E (30” Natural Gas Pipeline), Kinder-Morgan (16” & 10” Petroleum Pipelines) and MCI (Telephone). The utility companies will utilize their own contractors to perform the relocation work.

The Project includes the acquisition of the right-of-way in fee, easements, and temporary construction areas. This action will authorize the following: the filing of a condemnation action as well as a 30-day Order of Immediate Possession, and expenditures to acquire the remaining property rights.

DISCUSSION

In order to construct the Project, the City required acquisition of property rights from five (5) property owners. “Notices of Decision to Appraise” were sent to the five (5) property owners on September 26, 2002, based on independent appraisals of the fair market value completed by James Brabant, MAI, March 18, 2003, and by Ted Hendrickson, MAI, December 15, 2002. Offers to Purchase were made to all five (5) owners on March 25 and 26, 2003. Four (4) of the five (5) affected property owners accepted the City’s offer. Two of the four have closed escrow and the remaining two are due to close within 30 days.

One (1) affected property is still necessary to acquire to allow for the completion of the Project. The referenced property is owned by Papillion Retirement Trust (“Papillon”) represented by John Hein. The property is triangular shape with a total gross area of approximately 15.104 acres with predominantly sloping elevation. The property is zoned AR1-1 (Agricultural Residential), and is designated as open space and industrial in the Mira Mesa Community Plan. Physically, the site consists of undeveloped raw acreage with numerous existing utility easements crossing the property for water, sewer, high pressure gas, 128-kv electric lines, slopes, pedestrian path easement, and a 200 foot wide SDG&E easement.

The appraiser, James Brabant, MAI, determined the fair market value of the property rights within two zones of value, useable raw land area and steeply sloping land which is primarily encumbered with existing utility and/or environmental view easements. In the preparation of his report, Mr. Brabant utilized an independent engineer and a land planner. The fair market value of the property rights to be acquired was determined to be \$154,800. There were no measurable severance damages, thus, any offsetting benefits were not estimated. The total area to be

acquired with both permanent and temporary rights is approximately 5.25 acres of which approximately .75 acres is overlapping with both drainage and slope easements and approximately .74 acres will be utilized temporarily for approximately one year.

The City's offer was sent by certified mail on March 26, 2003. Several follow up phone calls were made to Mr. Hein which went unanswered. On July 15, 2003, a final offer letter was sent to Mr. Hein via certified mail. On August 5, 9, and 10 the City was able to make telephone contact with Mr. Hein and then followed up with meetings in person at the Real Estate Assets Department on August 12 and 26, 2003. However, negotiations regarding the purchase price and terms have not been successful to date.

Eminent Domain Law requires that any person subject to condemnation proceedings be given the opportunity to speak and be heard regarding the following questions to which the City must address itself:

1. Does the public interest and necessity require the proposed project?

The proposed Project has been planned and included in the Transportation System Element of the Mira Mesa Community Plan. The Mira Sorrento Place road project is required as part of Engineering and Capital Projects on-going efforts in providing specific road improvements that are recommended to protect the health and safety of pedestrians, bicyclists, and motorist; accommodate existing and future traffic with minimum disruption to residents and businesses; and protect sensitive environmental resources within the community planning area. All required environmental reviews were completed as pertained to the scope of work proposed. Accordingly, the Project is in the public interest and necessity.

2. Is the proposed Project planned or located in the manner that will be most compatible with the greatest public good and the least private injury?

The proposed Project has been located and designed to implement the Community Plan and build the proposed project within the constraints imposed by existing topography and adjacent developments. After several alternative routes were investigated by qualified engineers, it was concluded that this route and design is the most compatible with the greatest public good and the least private injury. According to the traffic study for the proposed Project that was conducted by the Project consultant URS, it was concluded that the road extension is projected to help alleviate queuing problems in the study area, especially at the Scranton Road / Mira Mesa Boulevard intersection. Overall, the traffic study indicates that the Mira Sorrento Place extension will enhance traffic circulation in the area. The proposed Project was also identified in a Caltrans' Project Report (1989) as an integral component of proposed improvements to the Mira Mesa Boulevard Interchange at I-805. The proposed Project has wide support from the local community and business groups. Based on the above the proposed Project's location has been planned with the greatest public good and the least private injury.

3. Is the property sought to be acquired necessary for the proposed Project?

This property is a key component, identified by the URS Traffic Study, required for the alignment of the best route possible within the proposed project limits. The route consists of widening the existing two-lane 560 feet portion of Mira Sorrento Place to a four-lane collector right-of-way), and to extend the road by 1,160' to intersect with Vista Sorrento Parkway at the existing on/off ramps to I-805 freeway in accordance with the Mira Mesa Community Plan. The Project limits also include relocating a utility area that runs within the 200-foot wide easement vested in San Diego Gas and Electric. In order to relocate the utility line, it is impossible to avoid the referenced property as the existing easement runs north and south through the middle of the Papillon Retirement Trust ownership. Without the acquisition of the property rights as proposed, the Project would be substandard as there is insufficient right-of-way to support the planned improvements. If the improvements are not constructed at this time, they will still be necessary in the future.

4. Whether the offer required by Section 7267.2 of the Government Code has been made to the owners of record.

A Litigation Guarantee obtained from Chicago Title Company dated November 21, 2002 and December 2, 2002 shows the owner of record to be Papillon Retirement Trust, Michael J. Zagari, Trustee, subject to proceedings pending in the Bankruptcy Court where a Petition for Relief was filed March 7, 2003, Case No. 0202364LA. Written offers were made on March 26, 2003 to representatives of the Papillon Retirement Trust in accordance with the requirements of Section 7267.2 of the Government Code. Mr. Hein is acting as the designated representative for Papillon Retirement Trust.

ALTERNATIVES

Do not adopt the Resolution of Necessity at this time, thereby delaying or canceling the Project.

Respectfully submitted,

William T. Griffith
Real Estate Assets Director

Approved: Bruce A. Herring
Deputy City Manager

GRIFFITH/LHG

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments: Acquisition Drawings