



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: November 12, 2014 REPORT NO: 14-069  
ATTENTION: Council President and City Council  
SUBJECT: FRIARS ROAD/SR-163 INTERCHANGE PROJECT – EMINENT  
DOMAIN

REQUESTED ACTION:

- 1) Authorizing a Resolution of Necessity pursuant to Code of Civil Procedure 1245.230 for the fee acquisition and temporary construction area permit over portions of Assessor Parcel Numbers 437-291-29 and 437-291-30 for the construction of the Friars Road/SR-163 Interchange Project.
- 2) Authorizing the City Attorney's Office to institute an eminent domain proceeding pursuant the Code of Civil Procedure to acquire the property rights necessary for the Project and to request an Order of Pre-Confiscation possession of the property rights.
- 3) Authorize the Chief Financial Officer to expend funds in the amount of \$348,300.00 from Enterprise Funding CIP S-00851 - Friars Road/SR-163 Interchange Project, Fund No. 400169, for the property acquisition and temporary construction area permit found necessary for the Project.

STAFF RECOMMENDATION:

Approve the requested action.

SUMMARY:

Background: The City of San Diego, in coordination with the California Department of Transportation (Caltrans) District 11 and the Federal Highway Administration (FHWA), have proposed improvements to portions of the State Route (SR) 163/Friars Road Interchange and adjacent streets. The SR-163/Friars Road interchange experiences frequent congestion due to residential development, traffic generated by several shopping malls, and the close proximity to the SR-163/I-8 freeway-to-freeway interchange. In addition, four significant weave areas on SR-163 and Friars Road further aggravate the congestion.

The Project is split into three separate phases, all of which demonstrate independent utility to the area. All phases of work are located in the central portion of Mission Valley, centered around

the interchange of an eight-lane north-south trending freeway. Crossing the freeway is the six-lane, east-west local street, Friars Road.

The Project consists of: widening Friars Road from 6 to 11 lanes; adding a southbound auxiliary lane on SR-163 starting at Genesee Avenue; elimination of the off/on-ramp weave beneath the Friars Road overcrossing; constructing a new "flyover" bridge from eastbound Friars Road to southbound SR-163 and eastbound I-8; construction of a new bridge that handles southbound SR-163 to westbound I-8 traffic; and elimination of the weave segments on Friars Road by closing the northbound SR-163 to eastbound Friars Road off-ramp.

At this time, the first phase of the multi-phase Project, or Phase I, is being implemented. Major elements for Phase I of the project include: the widening of Friars Road Bridge, widening and/or restriping other roads and freeway ramps, relocating medians and modification of various traffic movements, and minimization of adverse effects on current circulation during construction. Also addressed under this phase of work are local streets in the area including Frazee Road, Ulric Street and Avenida de las Tiendas, which is the primary entrance to Fashion Valley Shopping Center. The City and its consultants have been proceeding with implementation of the Project since 2003.

To date staff has not been able to come to an agreement with the property owner, Fashion Valley Mall, LLC, as to the acquisition of the required property. This has been primarily due to the restrictive nature of the landlord's individual lease agreements with the Mall tenants.

Authority to commence an eminent domain proceeding to acquire the required property is requested to ensure possession of the property in advance of an award of the construction contract for the Project.

#### Discussion: The Resolution of Necessity

California eminent domain law [Code of Civil Procedure §1230.010 et seq.] mandates before the City may commence a legal proceeding to acquire property for public use, the City Council must adopt a Resolution of Necessity [RON] by a two-thirds majority of the full City Council, describing the location of the property and the public necessity requiring the acquisition of the property or property rights.

The City Council must make findings that 1] the public interest and necessity requires the Project for which the property is being acquired; 2] the Project has been planned and located in a manner most compatible with the greatest public good and the least private injury; 3] the property rights to be acquired are necessary for the Project; and 4] an offer to purchase the property rights has been made to the owners of the property, but has not been accepted. Code Civ.Pro. §§ 1240.030, 1245.230, 1245.240.

A RON may be adopted only after each person whose property is to be acquired has been given at least 15 days prior notice of the hearing where the RON will be considered. The property owner must be afforded the opportunity to provide the City with a written request to appear and be heard. Failure to provide a timely written request to the City Council constitutes a waiver of

the right. Code Civ.Pro. §1230.040. A RON adopted by the City Council conclusively establishes the public necessity for the Project and establishes the Project has been planned and located in a manner most compatible with the greatest public good and least private injury. Code Civ.Pro. §1240.030.

**1. Does the Public Interest and Necessity Require the Acquisition for the Project?**

Yes. Approval of the eminent domain action serves the public interest and is necessary for the development of Phase I of the Friars Road / State Route (SR) 163 Interchange Improvements Project. The Project provides vital capacity increases to local streets, arterials and interchange connections in the Mission Valley Community, and additionally implements safety upgrades for pedestrians and cyclists.

As it stands today, the existing SR-163/Friars Road Interchange has characteristics that create challenging conditions for drivers, bicyclists and pedestrians. The primary issues are short weaving distances that add to congestion and queuing for vehicles, and free-right turn movements that ultimately make street crossings difficult and dangerous for bicyclists and pedestrians.

The Project improvements are greatly needed to relieve traffic congestion, delay, and safety concerns on local and surrounding areas, largely caused by population growth and planned land-use development in the community. Additionally, Phase I Improvements enhance operational characteristics and provide a standard and efficient interchange facility for traffic on SR-163, Friars Road and other surrounding local roads.

**2. Is the Project Planned or Located in a Manner that will be Most Compatible with the Greatest Public Good and Least Private Impact?**

Yes. The Project has been planned and designed to minimize private property impacts, while maximizing benefits to the public and community. The Project provides not only traffic congestion relief while bringing existing improvements up to current standards, but it also includes extremely visible landscape, bike and pedestrian enhancements, i.e. wider sidewalks, accessible curb ramps, architectural treatment on retaining walls, and more. Multiple discussions with affected property owners resulted in numerous engineering changes to the Project design to minimize the impact on private property, limiting the proposed acquisition to the narrowest right-of-way (ROW) possible, but still adhering to the legal requirements for ROW and traffic lane widths.

**3. Is the Acquisition Necessary for the Project?**

Yes. The property is required for the Project so that the Friars Road / SR-163 Interchange Improvements Project can be constructed as approved by the local community and final environmental document. If the current configuration remains unchanged, and property is not acquired as needed by the proposed improvements, traffic weaving demands will increase, along with queuing on local streets, and a further breakdown would be apparent in freeway and local operations. The freeway connections and surface improvements planned under this project are

needed to serve Mission Valley's transportation needs, and provide continuing efficiency in mobility to the community.

FISCAL CONSIDERATIONS:

Funds in the amount of \$348,300 are necessary for the acquisition of portions of APN's 437-291-29 and 437-291-30. The funds are available within the existing CIP budget, specifically WBS S-00851, and will be sourced from Fund 400169 (Transnet). Allocated funding shall be used for the purposes of property acquisition and related expenses, and the leasing of temporary construction areas.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

FRIARS ROAD/SR-163 INTERCHANGE PROJECT FINAL ENVIRONMENTAL IMPACT REPORT No. 72782 AND MMRP ADOPTED ON MAY 26, 2010

Council Resolution No. RR-298491 on October 14, 2003 authorized a Cooperative Agreement between the State of California and the City for the Project.

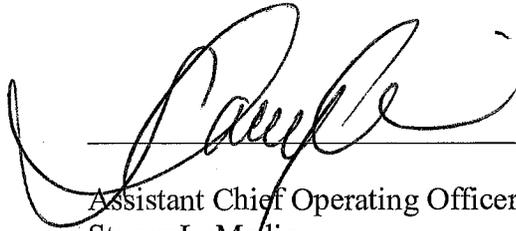
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community meetings and updates: Linda Vista (2006, 2013, 2014); Mission Valley (2006, 2012, 2013); Serra Mesa (2009, 2013); Planning Commission Hearing (2010); Sound Wall Outreach Meetings (2009, 2012); Presentation to ASCE Local Chapter (2013)

Meetings with Business and Property Owners: East Friars / Hazard Center Business Owners (2009, 2013, 2014); Fashion Valley Mall Business Owners/Representatives (2013, 2014)



Originating Department  
Cybele Thompson



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