



COUNCIL AGENDA: 1/23/07  
ITEM: 9.3

# Memorandum

**TO:** HONORABLE MAYOR, CITY  
COUNCIL AND REDEVELOPMENT  
AGENCY BOARD

**FROM:** Les White  
Harry S. Mavrogenes

**SUBJECT:** SEE BELOW

**DATE:** January 8, 2007

---

**COUNCIL DISTRICT: 3**

**SUBJECT: ADOPTION OF A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE ACCEPTANCE OF AN EASEMENT AGREEMENT FOR A PORTION OF THE GRP TRAIL WITH SOBRATO INTERESTS II, SOBRATO INTERESTS III AND SOBRATO DEVELOPMENT CO. #792 BETWEEN JULIAN STREET AND UNION PACIFIC RAILROAD**

## **RECOMMENDATION**

Adoption of a resolution authorizing the Director of Public Works to execute acceptance of an Easement Agreement for a portion of the Guadalupe River Park (GRP) Trail with Sobrato Interests II, Sobrato Interests III and Sobrato Development Company #792 (Sobrato), and authorizing the Director of Public Works to execute all documents necessary to complete the transaction.

## **OUTCOME**

Approval and execution of the Easement Agreement will permit the City to continue use of the Guadalupe River Park Trail on a portion of property owned by Sobrato between Julian Street and Union Pacific Railroad.

## **BACKGROUND**

In September 2005, the Guadalupe River Park opened with great fanfare. While the facility is in use by the public, staffs from the Santa Clara Valley Water District (District), the Agency and the US Army Corps of Engineers are still completing smaller elements of the overall park and flood control project. Part of that work includes completing land entitlements between the District and the City. Additionally, some access agreements with private property owners require final approval by the Council. One of these agreements involves the Sobrato development adjacent to the Guadalupe River between New Julian Street and the Union Pacific Railroad tracks. A permanent easement agreement replacing a temporary license agreement has been drafted between the Agency, the City, and the property owner for Council approval.

1/8/07

**Subject:** GRP Trail Easement

Page 2

### **ANALYSIS**

The Guadalupe River Park Trail extends 2.6 miles along the Guadalupe River from Interstate 280 on the south to Interstate 880 on the north. The GRP Master Plan identifies this recreational trail on the Sobrato property. That Plan was adopted by the Council and Agency Board on December 17, 2002.

Redevelopment Agency staff, working with City staff and the City Attorney's Office, has negotiated an easement agreement for non-exclusive public access over and across Sobrato property. Although the Guadalupe River Park project is complete in this area, the easement is comprehensive in that it includes the installation, construction, operation and maintenance of a public recreational trail solely for pedestrian and non-motorized bicycle access including landscaping, signs, benches, lights, irrigation systems and other related trail improvements. This allows for additional construction if there is ever a need to modify the park trail in this area.

Previous environmental work on the property by the District and US Army Corps of Engineers detected certain levels of heavy metals adjacent to the trail in the river bank area. These contaminants originate from the former FMC factory that previously existed on the site. If this area is disturbed for trail purposes, the City could assume some responsibility for any contamination resulting from such disturbance. The City is assuming responsibility for the uses made of the trail by the public, including any exposure to hazardous materials. However, neither the City nor Agency has any current plans to disturb the site. The easement does not obligate the City to assume any liability for any environmental remediation of the site. Future work on the trail will be done by the US Army Corps of Engineers when they complete the reconstruction of the UPRR Bridge. Neither the City nor Agency will be responsible for that construction work.

The property owner will not receive any payment for the use of the property for recreation purposes. However, the Redevelopment Agency will pay for any escrow fees and closing costs, estimated to be less than \$1,000.

### **POLICY ALTERNATIVES**

Not Applicable

### **PUBLIC OUTREACH/INTEREST**

The proposed action does not meet any of the criteria noted below for added outreach efforts. It will be posted on the City's website and made available for public review.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater; (Required: Website Posting)
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)

1/8/07

**Subject:** GRP Trail Easement

Page 3

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

Community participation in the design included the Guadalupe River Park Task Force, Santa Clara Valley Water District, the Sierra Club, the State Department of Fish and Game, the Guadalupe Conservation District, Natural Heritage Institute, Federal Department of Fish and Wildlife, U.S. Army Corps of Engineers, Regional Quality Water Board and several other organizations. There has been no opposition by any local organization or governmental agency.

### **COORDINATION**

This proposed project has been coordinated with the City Manager's Budget Office, Department of Public Works and the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

Not applicable

### **COST SUMMARY/IMPLICATIONS**

Not applicable

### **CEQA**

Resolution No. 71373. On December 17, 2002, the City Council, as a Responsible Agency under CEQA, adopted a resolution of findings based upon the Guadalupe River Park Project EIR prepared by the Santa Clara Valley Water District, which served as the Lead Agency for the Guadalupe River Park Project.



LES WHITE  
City Manager



HARRY S. MAVROGENES  
Executive Director

For questions please contact BILL EKERN, Director of Project Management at (408) 535-1862 or David Sykes, Assistant Director of Public Works (408) 535-8440