



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen
James R. Helmer

**SUBJECT: PUBLIC USE AND NECESSITY
HEARING - R.C.S. MANAGEMENT**

DATE: 04-07-04

Approved

Date

Council District: 4

RECOMMENDATION

Adoption of a resolution:

1. Determining that public use and necessity require the acquisition of: (a) fee title to a portion of property located at 1212 Oakland Road, owned by R.C.S. Management and Investment Corporation, a California corporation; and (b) six-month temporary construction easement on an adjoining portion of the property; and (c) two sound wall easements at the northerly and southerly portions of the property.
2. Finding that: (a) the property to be taken is necessary for the completion of the Oakland Road street widening project; (b) the proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; (c) City staff established an amount of just compensation not less than the approved appraisal of the fair market value, (d) City staff made an offer to the owners for the full appraised amount; and (e) the proposed taking and use are authorized by law;
3. Directing the City Attorney to file an eminent domain action to acquire these property interests.

CEQA: Negative Declaration, PP03-06-209.

BACKGROUND

The objective of the Oakland Road widening project is to provide sufficient traffic capacity in the corridor for the purpose of serving existing and planned uses, consistent with the Land Use/Transportation Diagram of the adopted San José 2020 General Plan. Oakland Road is designated as a “Major Arterial Roadway” in the General Plan, defined as a roadway having three traffic lanes in each direction.

The existing roadway varies from two to four lanes between Hedding Street and Montague Expressway.

The Oakland Road Project will complete the widening of Oakland Road to six lanes from Montague Expressway south to Commercial Street (approximately 3.5 miles) (map attached). The project will remove bottlenecks, improve traffic flow and level of service and increase capacity on one of the City's major commute corridors. This property is located within the segment of Oakland Road between Commercial and Brokaw, one of the two parcels to be acquired within the Phase 1 limits. However, improvements in front of these parcels will be implemented as part of Phase 2. In order to meet the schedule for Phase 2, it is important to begin the process of acquiring the property at this time. The Phase 2 project is scheduled for contract award in March 2005 and start of construction in late spring 2005.

ANALYSIS

The first Offer of Just Compensation (based on full appraised value, as determined by an independent, licensed appraiser) was presented to owner on July 21, 2003. After extended negotiations, this offer was rejected by the owner because he insisted on being compensated for lost visitor and guest parking. After researching applicable traffic regulations and the development history of the property, staff determined that the visitor and guest parking was not a legal use of the premises. On February 3, 2004, a second offer of just compensation (also based on full appraised value as determined by an independent, licensed appraiser) was presented to the owner. The second offer was made because in the interim, staff had determined that the duration of the temporary construction easements needed to be extended from three months to six months. Staff thus made a second offer based on an updated appraisal which reflected the higher value of the longer temporary construction easement. The owner rejected this offer on February 4, 2004 and continued to insist on being compensated for lost visitor and guest parking.

The 11.85-acre parcel is currently improved with a mobile home park. The updated appraisal report establishes fair market value of the acquisition, temporary construction easements and sound wall easements at \$170,000. The proposed fee interest acquisition is an approximately 10,074 square foot area located adjacent to Oakland Road along the western edge of the larger parcel. The take area is currently improved with approximately 5,000 square feet of asphalt paving and approximately 70 large oleander bushes, but no existing structures are located in the take area. The acquisition represents a partial take of the owner's property. Consideration is also given to damages and benefits resulting from the acquisition.

The two sound wall easements are proposed for the northeasterly and southwesterly corners of the subject site. The easement in the northwesterly corner of the site will be trapezoidal in shape, will contain 189 square feet, and will be eight feet wide. The easement in the southwesterly corner of the site will also be trapezoidal in shape, will contain 66 square feet, and will be eight feet wide. These easements will be required to allow for placement of a sound wall. Improvements in the proposed southwest easement areas include landscaping and fencing.

The two temporary construction easements (TCE) are proposed to wrap around the proposed sound wall areas. The TCE in the northwesterly corner of the site will contain 423 square feet and the TCE in the southwesterly corner will contain 80 square feet. The easements will give the City exclusive control of the easement areas for six months during the construction of the sound walls. Control of this land will then revert to the underlying fee title-holder. Improvements in the TCE areas include landscaping and fencing as well as portions of two mobile home park pads. Due to the TCE(s), these two pads will not be available to the tenants for the six-month easement period.

The project will substantially benefit the public by increasing traffic safety for motorists, bicyclists and pedestrians and improving traffic circulation in the project vicinity. The only way to complete this project and avoid the fee take proposed herein would be to realign Oakland Road to the west. This would be a very costly option, as it would require removal of street improvements along the westerly side and impact a half a dozen more property owners. If the westerly realignment were completed, at least one building on private property would have to be demolished. As a result, the proposed take clearly represents the greatest public good with the least private injury.

PUBLIC OUTREACH

Staff conducted a community meeting on October 2, 2003 to introduce the project to the public and received positive feedback. The owner of the subject parcel attended the meeting.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office and the Department of Planning, Building and Code Enforcement.

COST IMPLICATIONS

Deposit of \$170,000 into the State Treasury Condemnation Fund and any additional funds that the court may determine.

1. AMOUNT OF RECOMMENDATION: \$170,000
2. SOURCE OF FUNDING: Building and Structure Construction Tax Fund (429)
3. FISCAL IMPACT: This recommendation is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy. The operating and maintenance costs for the entire Oakland Road: Route 101 to

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Montague project have been reviewed. The project entails the construction of two new traffic signals. Upon completion, these signals will have annual operating and maintenance costs of roughly \$9,000 annually.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2003-04 Adopted Budget Page	Last Budget Action (Date, Ord.No.)
429	6339	Oakland Road: Route 101 to Montague	059583	\$5,012,000	\$170,000	815	10/14/2003, Ord. No. 26997

CEQA

Negative Declaration, PP03-06-209.

KATY ALLEN
Director, Public Works Department

JAMES R. HELMER
Director of Transportation

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Attachments