



COUNCIL AGENDA: 09-14-04

ITEM: 2.10

Memorandum

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

FROM: Katy Allen

**SUBJECT: ACCEPTANCE OF DONATIONS OF
REAL PROPERTY ON TOWERS LANE**

DATE: 09-09-04

Approved

Date 9/10/04

Council District: 7
SNI: West Evergreen

REASON FOR ADDENDUM

In order to meet commitments to the community for street construction, staff requests Council approval at its September 14, 2004 meeting.

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to execute donation agreements and accept deeds, on an individual basis from the following property owners along Towers Lane:

OWNER NAME	APN	ADDRESS
TON T. HOANG AND DENISE M. NGO	670-13-005; 670-13-006	1577 Aborn Road and 2992 Towers Lane
GONZALO & GLORIA FIGUEROA ET AL	670-13-007; 670-13-008	2978 Towers Lane; vacant
DAT TAT TRAN AND HOA THI TRAN	670-13-009	2954 Towers Lane
EDITH GUEVARA	670-13-010	2942 Towers Lane
PAUL AND RITA MARQUEZ; ROBERT ASHIZAWA -	670-13-014	Vacant Lot
DAI MINH DUC, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY	670-13-015; 670-13-016	2955 Towers Lane
J. D. BAKER TRUSTEE & ET.AL.	670-13-017	2959 Towers Lane
JOSEPH AND BRENDA SANTIAGO	670-13-018	2967 Towers Lane

CUC EDWARDS AND NHAN NGUYEN	670-13-019	2981 Towers Lane
JOE A. SANCHEZ AND LUPE SANCHEZ	670-13-028	Vacant Lot
PHUONG M. VO AND KIM ANH DOAN	670-13-029	2928 Towers Lane
PACIFIC DISTRICT CONFERENCE (TCE only)	670-13-027	1573 Aborn Road

CEQA: Exempt, PP02-03-046.

BACKGROUND

Towers Lane is a private dirt road that crosses Aborn Road just west of King Road. For over 50 years, 15 single-family homes have relied on this dirt road for access. These homes are currently owned by 11 property owners. The property owners along the roadway have requested that the street be improved. This project responds to that request and includes street paving, storm drainage, sanitary sewer, curb and gutter, sidewalks and streetlights as well as relocation of the existing electrical and gas facilities. On November 11, 2003, Council authorized the City Manager to negotiate and execute 11 agreements with the owners of real property on Towers Lane for the donation of frontage within Towers Lane. The Council, at that time, however, required that the City Manager only accept all such agreements as a group and not individually.

All 11-property owners (three property owners own two parcels each) of the 14 properties have signed donation agreements with the City for the land and temporary construction easements. Still pending in the total transaction are reconveyances from a couple of the lenders. After the reconveyances have been received from the lending institutions the property owners have begun completing the process by signing their respective deeds to the City for recordation with the County. Also, the Joint Use Agreement with PG&E has been negotiated, but cannot be executed by the City until it has ownership of all of the necessary properties. The construction bids were opened on July 22, 2004 and must be awarded within 90 days of the bid opening, which means the contract must be awarded no later than October 19, 2004. The bid was 28 percent below the projected estimate for the project.

ANALYSIS

Despite the fact that each property owner has signed donation agreements, the properties cannot be donated to the City without a reconveyance of the rights any lenders may have in the property. Staff has been working to clear the property titles through escrow and to obtain the lenders' approval of the donations. Each lender had its own complex requirements to approve the donation, including separate appraisals, plat maps, legal descriptions, owner's mortgage payment history and certification from Planning Department. To date, staff has been able to obtain

cooperation from all the lenders and could close escrows on those properties whenever the City Manager executes the agreements. The Council's previous authority was to sign all the donation agreements at the same time after the lenders had granted their approvals. Because of the varying degree of difficulty in acquiring all the necessary signatures from the various lenders, it is not possible to bring them together as one package. Authorizations from lenders that responded early in the process will begin to expire on September 15, 2004. Once they have expired, the City will need to resubmit the necessary paper work with those lenders which will include submitting additional fees to those lenders. Therefore, staff is requesting permission to authorize the City Manager to execute all of the previously signed donation agreements and begin recording signed grant deeds on a case-by-case basis.

At this time, the deeds and necessary paper work have not been signed by all the owners of the parcels. As a result, though all owners have indicated a willingness to cooperate and have signed donation agreements conditioned on approval by their lenders, there is the outside possibility when it comes time to sign the documents either lender may decide not to reconvey its interest, leaving the City holding title to only a portion of the street.

The City will therefore be taking a risk in accepting some of the properties before all properties are available for City acceptance. Any time that the City owns property, the City has a certain amount of liability for conditions on that property. In this situation, the City would be acquiring a street that it has never maintained, and the City would have no ability at the time of acquisition of these properties to upgrade the quality of the entire street, because it would not own all of the properties necessary to make large street improvements. In addition, if one of the lenders determined not to reconvey its interest in the property, the City would have to pursue alternative modes of acquiring the property, which might include a negotiated agreement approved by the lender or eminent domain, creating additional delay in starting street improvements. Moreover, the Joint Use Agreement with PG&E cannot be executed until either the property descriptions for PG&E easements are redrawn or the City acquires all of the properties necessary for the future PG&E easements.

PUBLIC OUTREACH

Numerous meetings between the property owners and staff have occurred over time. Notices were published and mailed to residents and owners for each public meeting. The last neighborhood public meeting was held on June 17, 2004.

COORDINATION

Preparation of the resolution and this memorandum have been coordinated with the Department of Transportation, the City Attorney's Office and the City Manager's Budget Office.

HONORABLE MAYOR AND CITY COUNCIL

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COST IMPLICATIONS

Funding for the street and sewer improvements is primarily programmed in the Traffic CIP, with additional smaller contributions from the Redevelopment Agency and the Sanitary Sewer CIP. The low bid for the construction work was \$628,655. In addition, the City will pay escrow and closing costs for the properties in the approximate amount of \$45,000. The original estimate for escrow and closing costs was \$36,000, however the additional funds are needed because of the additional complexity of the escrows and loan reconveyances. There is no cost for the donation of the land except for escrow and closing costs. The utility relocation costs are \$74,000.

CEQA

Exempt, PP02-03-046.



KATY ALLEN

Director, Public Works Department

TJZ:hla

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