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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 0 9 - 0 4 0 0

NOV 30 2009

REPORT RE:

**DRAFT OF ORDINANCE FINDING THAT THE
PUBLIC INTEREST AND NECESSITY REQUIRES
THE ACQUISITION OF REAL PROPERTY LOCATED AT
4124 NORTH MISSION ROAD FOR THE CONSTRUCTION OF THE
SOTO STREET BRIDGE OVER MISSION ROAD AND HUNTINGTON DRIVE
IMPROVEMENT PROJECT
(Council Districts 1 and 14)**

NOTICE AND OPPORTUNITY TO BE HEARD REQUIRED

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 04-1136

Honorable Members:

Pursuant to a request from the Bureau of Engineering, this office transmits, approved as to form and legality, a draft Ordinance (attached as Exhibit 1) authorizing the condemnation of real property located at 4124 No. Mission Road (Subject Parcel) (A.P.N. 5211-019-001) for the Soto Street Bridge Over Mission Road and Huntington Drive Improvement Project (Project).

The Project, which is part of the City's Bridge Program, was authorized by the City Council under Council File No. 04-1136. Funding is through a combination of federal and local funds. The Project entails the removal of the existing bridge and re-aligning Mission Road, Soto Street, Huntington Drive North and Huntington Drive South, while constructing two signalized at-grade intersections. Two new cul-de-sacs will be

constructed to provide access to the residential complex and the businesses located on the east side of the new intersections. A Type II Bike Lane and sidewalk will also be provided along the new roadway. New landscaped area median and frontage areas will enhance the aesthetics of the vicinity.

Construction of the Project necessitated acquisition of four parcels, three of which have been voluntarily purchased. The Subject Parcel is necessary to construct a new at-grade intersection at Soto Street and Mission Road and to widen Soto Street in order to provide two vehicular right turn lanes with a smooth, curved roadway onto Mission Road.

The Subject Parcel is owned by Fernando C. Flores who has demanded \$405,000 for his property. This is approximately 68% higher than the \$240,000 market value established for the Subject Parcel by a City appraisal. Based on that appraisal, the City made an offer to Mr. Flores to purchase the property as required by Government Code section 7267.2 for \$240,000, which Mr. Flores has rejected. After months of negotiations and attempts to voluntarily acquire the Subject Parcel, staff has reached an impasse and believes that this parcel cannot be acquired voluntarily. If the bridge demolition, street re-alignment and street widening are to occur, the Subject Parcel must be acquired. There are no other appropriate alternative properties or locations within the Project's current design parameters.

The Project must proceed to improve the efficiency of traffic movement and pedestrian safety along Soto Street, Mission Road, and Huntington Drive, eliminate a seismic hazard posed by the existing Soto Street Bridge which is subject to collapse under maximum credible earthquake (MCE) event estimates, correct deficiencies listed under Federal Highway Administration Highway Bridge Replacement and Rehabilitation program, and to beautify the neighborhood by providing green space.

California Environmental Quality Act (CEQA)

On December 4, 2004, you adopted a Negative Declaration describing the potential impacts of the project for which the condemnation ordinance is necessary. The Negative Declaration concluded the Project does not have the potential to generate any significant environmental impacts. (A copy of the Negative Declaration may be found in Council File No. 04-1136). It does not appear that either the Project or the circumstances surrounding it have changed such that the provisions of State CEQA Guidelines 15162 would require additional review. If you make a finding to that effect, no additional environmental clearances are necessary prior to your adoption of the ordinance authorizing condemnation.

Consistency with General Plan

Pursuant to City Charter Section 559, on April 22, 2009, the Director of Planning determined that the proposed Project was in substantial conformance with the purposes, intent and provisions of the Northeast Community Plan, an element of the General Plan. The Council may comply with Charter Section 556 by adopting the findings of the Director of Planning or by making its own findings. The Planning Commission also indicated that it believed that the Project was categorically exempt under CEQA Class 5, subsection 4 [conveyance of easements for streets, etc.]. However, we recommend that you make the findings discussed above under CEQA Guidelines 15162. A copy of the Planning Department's report is attached as Exhibit 2.

Notice and Opportunity to be Heard

The draft Resolution of Necessity (Condemnation Ordinance) provides that the owner of the Subject Parcel to be acquired by proceedings in eminent domain has been given notice of the intention of the Council to adopt the proposed ordinance and has been given an opportunity for a hearing, all as required by Code of Civil Procedure Section 1245.235. Pursuant to that section it is necessary that the Council set a date for the hearing, that the Clerk give not less than fifteen (15) calendar days prior notice to the owner of the date and time of the hearing, and that if the owner, or his representative, appears and desires to be heard, the Council permit such a hearing.

Compliance with Rule 38

A copy of this Report and the proposed Condemnation Ordinance have been reviewed by the Bureau of Engineering and the Project Manager for the Project; each are in agreement with the contents hereof.

Recommended Actions

In accordance with the above, this Office recommends that the Council take the following actions, after it conducts the public hearing:

1. Find that approval of the Condemnation Ordinance is exempt from additional environmental review under State CEQA Guideline 15162, for the reasons set forth in this report;
2. Adopt the findings of the Planning Department dated April 22, 2009, as set forth in Exhibit 2;
3. Authorize this Office to make a deposit of probable just compensation of \$240,000 with the Clerk of the Superior Court as determined by the appraisal for the Subject Parcel, which deposit will be obtained from Fund

655/Department 94, Account T811 per Council File No. 06-1080-56, 2006-07 Transportation Grant Fund Annual Work Program, to make any additional deposit which may be required by Court order and to seek an order from the Court to obtain possession of the Subject Parcel at the earliest possible date;

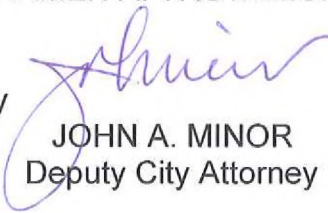
4. Direct staff to take all actions necessary to authorize payment for this acquisition;
5. Adopt the Condemnation Ordinance attached hereto as Exhibit 1 and authorize this office to file a complaint in eminent domain to acquire the Subject Parcel; and
6. Authorize the Bureau of Engineering's Real Estate Group to continue to attempt to acquire the property, and all interests in the property, by a negotiated purchase, and if successful, to execute all documents necessary to accomplish the transfer to the City.

Should you require any further information or have any questions, you may contact Deputy City Attorney John A. Minor, at (213) 978-8255. He or another member of our office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By


JOHN A. MINOR
Deputy City Attorney

JAM:zra

ORDINANCE NO. _____

An Ordinance of the City of Los Angeles finding that the public interest and necessity require the "Soto Street Improvement Project", and the acquisition of property therefore. (Work Order No. E700300L Right of Way No. 33678-4AA)

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. The Council of the City of Los Angeles resolves, finds and determines that the public interest and necessity require the "Soto Street Improvement Project" (Work Order No. E700300L Right of Way No. 33678); the project is planned and located in the manner which is most compatible with the greatest public good and the least private injury, and the property described herein and as set forth in Exhibit A is necessary for the project; and the property has been appraised and an amount has been established for the property which it is believed to be just compensation for the property, and an offer has been made to the owner of record to acquire the property for the full amount of said just compensation.

Sec. 2. The property is to be acquired for permanent public street purposes under the authority of California Government Code Section 37350.5.

Sec. 3. The property to be acquired is located at 4124 North Mission Road in the City of Los Angeles, County of Los Angeles, State of California, APN 5211-019-001. The property interests to be acquired are set forth hereinafter and the extent of the acquisition is described by reference to the attached R/W Map No. 33678-4AA attached as Exhibit B.

Sec. 4. Notice has been given by first class mail to the person whose property is to be acquired by eminent domain, which notice advised such person of the intent of the Council to adopt this Ordinance, of the right to appear and be heard by the Council, and the owner who so requested was given an opportunity to appear and was heard by the Council.

Sec. 5. The City Attorney is authorized to commence an action in eminent domain to acquire said property in fee.

Sec. 6. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all of its members, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality
CARMEN A. TRUTANICH, City Attorney

By 
Deputy City Attorney

DATE: Nov. 25, 2009

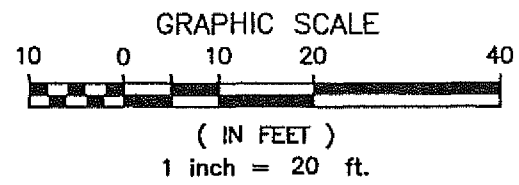
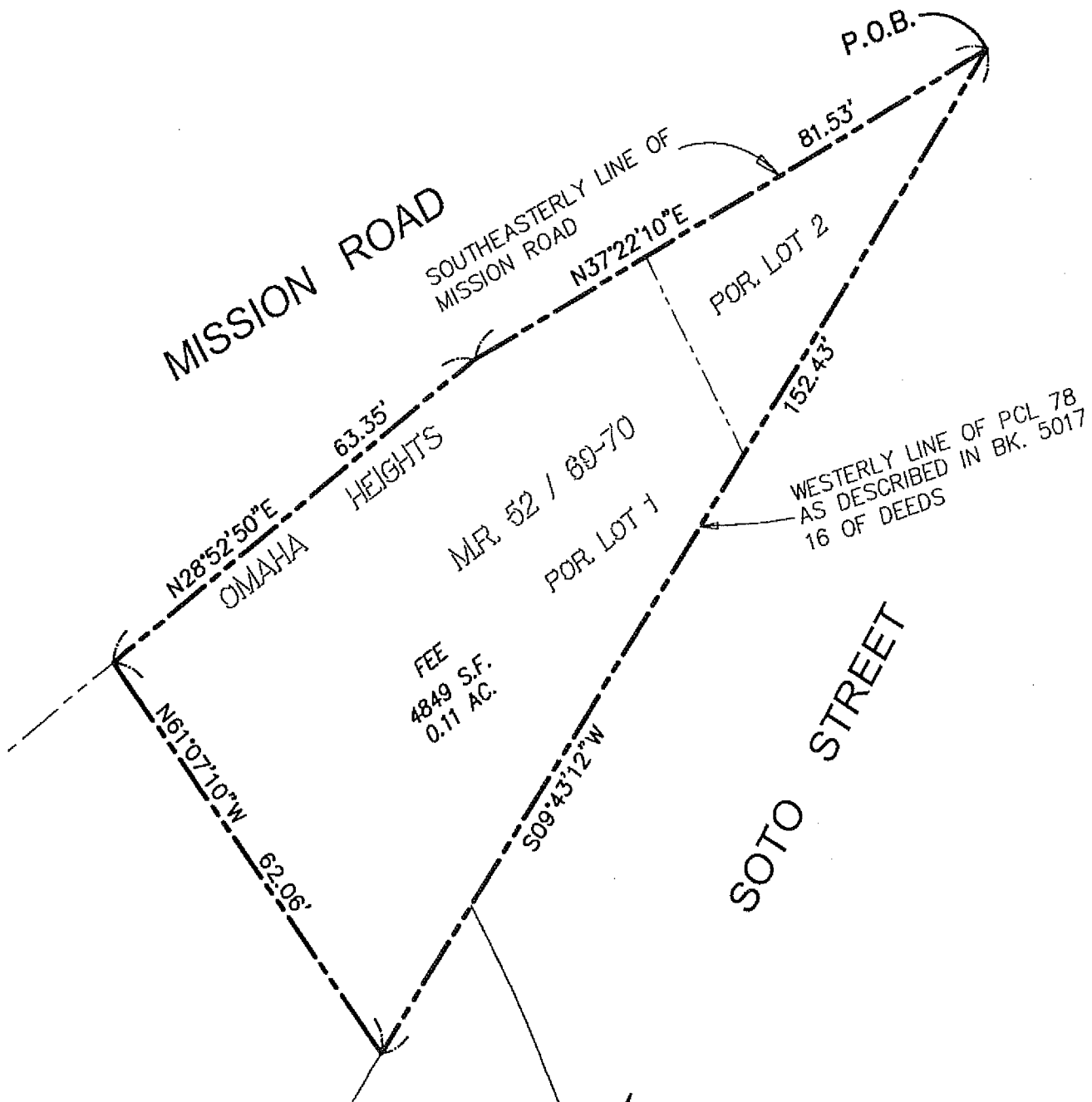
File No. _____

I reviewed the attached plat and it appears to accurately depict the alignment and/or configuration requested for this project

Gary Lee Moore P.E., City Engineer

By:  Date: 11/9/09
Project Manager

EXHIBIT "B"



The Culver Group CONSULTING ENGINEERS • LAND SURVEYORS CONSTRUCTION MANAGERS 12387 Lewis Street, Suite 201 GARDEN GROVE, CA. 92840 714/980-2160 Fax 714/980-2161	PROJECT NAME: HUNTINGTON / SOTO LOS ANGELES	SHEET 1 OF 1
	SHEET TITLE: APN 5211-019-001	DATE: 5-28-08
		DRAWN BY: KT
		CHECKED BY: GC Job No. HDR0101



DEPARTMENT OF CITY PLANNING

RECOMMENDATION REPORT

City Hall • 200 N. Spring Street, Room 667 • Los Angeles, CA 90012



April 22, 2009

Council District: 1

Plan Area: Northeast Los Angeles

TO: Frank Viramontes
Chief Real Estate Officer II
Bureau of Engineering

FROM: Los Angeles City Planning Commission

SUBJECT: Condemnation of a property for the purpose of PUBLIC-RIGHT-OF-WAY

PROJECT LOCATION: Soto-Huntington Right-of-way (Soto Street Bridge over Mission Road Improvement-of-Way No. 33678-W.O.)

CHARTER SECTIONS 556 AND 558

The proposed project is in substantial conformance with the purposes, intent and provisions of the City's General Plan and the Northeast Community Plan Area - an element of the General Plan - in that it would serve the public interest and the objectives of the Community Plan, and would not adversely impact the surrounding community.

The Soto Bridge over Mission Improvement Project (Project) was authorized by City Council under CF No. 04-1136. This project entails removal of the existing bridge and re-aligning Mission Road, Soto Street, Huntington Drive North and Huntington Drive South, while constructing two signalized at-grade intersections. Two new cul-de-sacs will be constructed to provide access to the residential complex and the Rancho Meat Market on the east side of the new intersections. A type II bike lane and sidewalk will be provided along the new roadway. New landscaped area median and frontage areas will enhance the aesthetics of the vicinity.

The construction of this project necessitates the acquisition of six parcels consisting of four (4) full takes and two (2) partial takes to facilitate the construction of this planned improvement. Offers have been presented to all owners whose properties are needed for the project.

The Department of City Planning is now conducting an update of some of the City's 35 community plans. One of the major issues that the public raised during a long and extended public input process was the need for more pedestrian amenities. The proposed project is consistent with the City's goals to achieve enhanced pedestrian amenities in the Northeast Community Plan area.

The environmental (CEQA) status of the proposed project, as determined by the Lead Agency, is:

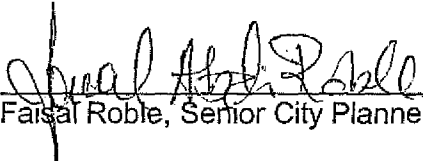
Categorical Exemption – Article VII, Class 5(4).

RECOMMENDATION

Under the authority granted by Section 559 of the City Charter and the City Planning Commission action of July 27, 2000 delegating authority to the Director of Planning to act on behalf of the Commission on certain matters, I approve the subject project and recommend that it be approved by the City Council.

S. GAIL GOLDBERG, AICP
Director of Planning

By:


Faisal Roble, Senior City Planner

Date: 4/21/2009