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CITY ATTORNEY

REPORT NO. R 1 4 - 0 2 3 5

REPORT RE:

MAY 08 2014

**PROPOSED RESOLUTION OF NECESSITY FINDING
THAT THE PUBLIC INTEREST AND NECESSITY REQUIRES
THE ACQUISITION OF FEE INTERESTS IN REAL PROPERTY LOCATED AT
3283 EAST CESAR E. CHAVEZ AVENUE AND 3285, 3287, 3289, 3291
AND 3293 EAST CESAR E. CHAVEZ AVENUE FOR THE CONSTRUCTION
OF THE CESAR E. CHAVEZ AVENUE/LORENA STREET/INDIANA STREET
INTERSECTION IMPROVEMENTS PROJECT**

**W/O NO. E1906614
R/W MAP NO. 33798**

(COUNCIL DISTRICT 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. 11-0269

Honorable Members:

Pursuant to the request of the Bureau of Engineering (BOE), this Office transmits, approved as to form and legality, a Resolution of Necessity (Ordinance) authorizing the condemnation of fee interests in real property (Subject Properties) located at:

- 3283 EAST CESAR E. CHAVEZ AVENUE
(APN NO. 5178-026-019) (PARCEL 1F); AND

- 3285, 3287, 3289, 3291 AND 3293 EAST CESAR E. CHAVEZ AVENUE (APN NOS. 5178-026-020, -021 AND -022) (PARCEL 2F).

The Subject Properties are required for the Cesar E. Chavez Avenue/Lorena Street/Indiana Street Intersection Improvements Project (Project). The proposed Ordinance for each of the Subject Properties, with legal descriptions attached thereto is attached as Exhibit A.

Location

The Project is located at the existing intersections of Cesar E. Chavez Avenue at Lorena Street and Cesar E. Chavez Avenue at Indiana Street in the Boyle Heights area of the City in Council District 14 (Huizar). The site is located approximately three miles east of downtown Los Angeles on the border of the Boyle Heights Community in the City of Los Angeles and the East Los Angeles Community in unincorporated Los Angeles County. The border between the two jurisdictions is along Indiana Street.

Acquisition of the fee interests in the Subject Properties by condemnation will allow the Project to remain on its scheduled timeline. The property owners' decision to not accept the City's offers necessitates this request for authority to acquire such properties and/or property interests by eminent domain.

Purpose of the Project

The purpose of the Project is to construct a modern traffic "roundabout" at the confluence of the intersections of Cesar E. Chavez Avenue at both Lorena Street and Indiana Street by reducing the complexity of these existing intersections and providing two lanes of travel in each direction. The Project will alleviate current traffic system deficiencies while increasing the road capacity at the subject intersections. The Project design will serve to reduce traffic congestion, pollution, accidents and vehicular speeds through the intersection. Both pedestrian and vehicular safety will be enhanced. The overall impact of the Project will be to improve mobility and accessibility between the Boyle Heights community and downtown Los Angeles. These improvements will result in the more efficient movement of people, vehicles, goods and services in the neighborhood and broader region.

Project Description

The proposed Project would reconfigure the existing five-legged, signal/stop sign controlled intersection located along Cesar E. Chavez Avenue at Lorena Street and at Indiana Street into a modern roundabout with a large, oval central median and several smaller islands, which would deflect traffic into the proper lanes. Traffic from Cesar E. Chavez Avenue, Lorena Street and Indiana Street would yield when entering the roundabout and would, traveling a counter-clockwise path around the central median,

exit onto Cesar E. Chavez Avenue, Lorena Street or Indiana Street. See Exhibit B for a detail of the improved traffic patterns at the roundabout, Exhibit C for an aerial view and Exhibit D for the Parcel Maps.

The oval central median will be approximately 145 feet long and 115 feet wide. There will also be two smaller traffic islands in the southern portion of the intersection, one island to the west of Lorena Street and one island between Lorena Street and Indiana Street along Brooklyn Place, as well as five "splitter islands" separating opposing traffic lanes at each leg of the intersection. The central median and the islands would be landscaped as space and operational needs allow. The landscaping of the large central median, the traffic islands and the splitter islands are expected to consist of lawn and shrubs to meet the visibility and operational needs of the roundabout.

The alley that runs parallel to and north of Cesar E. Chavez Avenue would be closed to vehicular traffic at Lorena Street. A turn-around area would be provided at the closed end of the alley. The west side of Lorena Street, north of the alley, would be reconfigured into a cul-de-sac. Access to all properties would be maintained and the cul-de-sac would have sufficient room for vehicles to turn around. On-street parking adjacent to the residences would remain.

The splitter islands would separate the entering and exiting traffic lanes as well as deflect and slow traffic entering the roundabout. The traffic islands would be raised, but would have slightly ramped openings to provide access for pedestrians in compliance with the Americans with Disabilities Act. Pedestrians would cross the traffic lanes waiting on the traffic islands until it is safe to cross the remaining traffic lanes. There would be a pedestrian cross walk at the south side of Lorena Street.

The two existing traffic islands, which contain several veterans' memorials, would be removed and reinstalled on the new traffic islands. The City will determine the location of the veterans' memorials in its traffic island design in coordination with representatives of various veteran organizations. Certain local veteran organizations are considering developing a future project that would design, fabricate and install a new large veterans' memorial on the central median island. Landscaping of the large oval central median will be designed to meet the operational needs of the modern roundabout and the veteran organizations' future plans for installing a new memorial. Power service would be provided at the central median to facilitate future lighting for the veterans' monuments and at the two large traffic islands.

As part of the proposed Project, affected infrastructure and landscaping would be replaced or relocated to accommodate the new intersection layout, including, but not limited to, storm drains, power poles, maintenance access holes and street lights. The existing drainage at the intersection would be analyzed, and the new drainage for the proposed improvements would be designed to improve the drainage as much as

possible. The County of Los Angeles would review the design and any relocation, reconstruction or connection to County of Los Angeles drainage system. Both County and City Low-Impact Development and Standard Urban Stormwater Mitigation Plan requirements would be considered for this Project. Additionally, given the nature and function of the proposed roundabout, the existing traffic signals at the intersection would be removed, as they would no longer be needed to control intersection operation. One tree along Cesar E. Chavez Avenue and a few private property trees in the parking lot at the northeast corner are expected to require removal. Any trees removed from the street would be replaced at a ratio of 2 to 1, in compliance with the City's street tree policy.

Need for Property Acquisition

In order to provide adequate right-of-way for the proposed improvements, property acquisitions are required from various properties located adjacent to the existing right-of-way. Specifically, commercial properties at 3283, 3285, 3287, 3289, 3291 and 3293 Cesar E. Chavez Avenue need to be acquired and all buildings demolished to allow for construction of the western portion of the proposed roundabout. Additionally, portions of the properties located at the northeast and southeast corners of Cesar E. Chavez Avenue and Indiana Street would also be necessary to provide adequate right-of-way for the construction of the roundabout and to provide adequate visibility for motorists.

Negotiations with Property Owners

The City has negotiated in good faith with each of the owners of the Subject Properties and has complied with the applicable land acquisition policies and regulations governing real property acquisition and the Caltrans Right-of-Way Manual.

Offers Made by the City

The City has made offers to acquire the Subject Properties as follows:

Parcel 1F – a statutory government offer of \$325,000 to acquire the real estate and \$44,700 for fixtures and equipment based on one or more current appraisals was made on March 12, 2014. The offer has not been accepted, and no reasonable or acceptable counter offer for this property has been made by the property owner.

Parcel 2F – a statutory government offer of \$1,010,000 to acquire the real estate and \$391,295 for fixtures and equipment based on one or more current appraisals was made on March 7, 2014. The offer has not been accepted, and no reasonable or acceptable counter offer for this property has been made by the property owner.

Environmental Compliance

The California Environmental Quality Act (CEQA) was enacted in 1970 for the purpose of informing decision-makers and the public regarding potential environmental effects of proposed projects, and identifying methods of avoiding environmental damage. The City's Bureau of Engineering Environmental Management Group has determined that the proposed project is subject to CEQA and no exemptions apply. Therefore, the preparation of an Initial Study was required.

An Initial Study is a preliminary analysis conducted by the City, in consultation with other agencies (responsible or trustee agencies, as applicable), to determine whether there is substantial evidence that the Project, even with mitigation, may have a significant effect on the environment, and whether an environmental impact report (EIR) should be prepared. Otherwise, the lead agency may adopt a negative declaration or mitigated negative declaration.

The City Engineer has determined that the proposed Project would not have a significant effect on the environment. The Notice of Intent to adopt an Initial Study/Mitigated Negative Declaration, dated September 13, 2010, is attached as Exhibit E.

CEQA Compliance

On March 10, 2011, the City Council approved the Project and adopted a Mitigated Negative Declaration prepared by the BOE for the Cesar E. Chavez Avenue/Lorena Street/Indiana Street Intersection Improvements Project (W.O. NO. E1906614), in conjunction with the approval of the Project. A Notice of Determination in that regard was filed on March 16, 2011. (Exhibit F).

Community Plan

The Project site lies within the Boyle Heights Community Plan. The Project is entirely within Council District 14. The project site is roughly bounded by the San Bernardino Freeway (Interstate 10) to the north, the Long Beach Freeway (Interstate 710) to the east, the Pomona Freeway (State Route 60) to the south, and the Golden State Freeway (Interstate 5) to the west.

Charter Finding

Pursuant to Charter Sections 556, 558 and 559, the City's Planning Department has determined that the proposed Project is in conformance with the purposes, intent and provisions of the City's General Plan, including the Central City North and Boyle Heights Community Plans. The Project would serve the public interest by facilitating the movement of goods and traffic through an area which has been identified

within the Community Plan as having an outdated traffic circulation network. A copy of the Department of Planning's April 14, 2014, letter finding that the Project is consistent with the objectives of the Boyle Heights Community Plan and the Transportation Element of the General Plan is attached as Exhibit G.

Council Rule 38 Referral

A copy of the proposed Ordinance was sent, pursuant to Council Rule 38, to BOE. BOE staff is in agreement with the terms of the proposed Ordinance.

Notice and Opportunity to be Heard

The proposed Ordinance provides that the owner(s) of the Subject Properties, or those with interests in any easements and/or leaseholds on the Subject Properties, be given notice of the City Council's intention to adopt the proposed Ordinance and provided an opportunity to appear at a hearing before the City Council and be heard on the matter, all as required by Code of Civil Procedure Section 1245.235. Pursuant to that section, it is necessary that the City Council set a date for the hearing and that the clerk give notice of the hearing date, which is not less than 15 days after notice is sent to the owner(s) and other interested persons. If the owner(s), or their representative, appear and desire to be heard, the City Council shall provide them the opportunity to appear before the City Council.

Funding Sources

This Office further recommends that it be given the authority to make a deposit of probable just compensation for the Subject Properties in the amounts specified in the Section entitled "Negotiations with Property Owners" above, or such other reasonable amounts as may be deemed prudent based upon any updated appraisals, market conditions and analysis and/or further negotiations with the property owners, which deposits will be obtained from MTA/LADOT Fund 655, Dept. 94, Account No. 94277A.

Recommended Action

In accordance with the above, this Office and BOE recommend that the City Council take the following actions, after it conducts the public hearing:

1. Find that, under State CEQA Guideline 15162, no further environmental review is required prior to approval of the proposed Ordinance;
2. Direct BOE and the Los Angeles Department of Transportation's Office of Accounting to take all necessary actions, without further instruction, to approve requests for payments in the amounts set forth above, or such other amounts as may be ordered by the Superior Court or deemed necessary in the judgment of the City Attorney, and

direct the Los Angeles Department of Transportation's Office of Accounting to process all such payments for the acquisitions of the Subject Properties and the fixtures and equipment thereon from MTA/LADOT Fund 655, Dept. 94, Account No. 94277A;

3. Authorize this Office to deposit with the court the probable just compensation, in the amounts and from the accounts previously specified herein, for each of the Subject Properties which will be subject to this condemnation, and to seek orders from the court to obtain early possession of the Subject Properties prior to trial;

4. Authorize the BOE's Real Estate Division to continue to attempt to acquire the Subject Properties, and all necessary interests therein, via negotiated purchases, and, if successful, to execute all documents necessary to accomplish the transfer of those interests to the City; and

5. Adopt the proposed Resolution of Necessity (Ordinance) authorizing the acquisition of the Subject Properties by eminent domain.

If you have any questions regarding this matter, please contact Deputy City Attorney John A. Minor at (213) 978-8255. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM/JAM:zra
Transmittal

Attachments:

- Exhibit A – Ordinance and Legal Description
- Exhibit B – Traffic Patterns
- Exhibit C – Aerial View of Site
- Exhibit D – Map of General Location
- Exhibit E – Notice of Intent to Adopt Mitigated Negative Declaration
- Exhibit F – Notice of Determination
- Exhibit G – Planning Department Approval