TO:        HONORABLE CITY COUNCIL
FROM:      CITY MANAGER  DEPARTMENT: ADMINISTRATIVE SERVICES
DATE:      APRIL 1, 2002  CMR:194:02

SUBJECT: RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF TEMPORARY CONSTRUCTION EASEMENTS AT 314 LYTTON AVENUE AND 420 FLORENCE STREET FOR THE DOWNTOWN PARKING STRUCTURES (CIP 19530)

REPORT IN BRIEF

The designs of two new downtown parking structures have been completed and were advertised for construction bids. The bidding period closed on March 26, 2002, and the bids are currently being evaluated in order to determine the lowest responsible bidder. Construction on the garages could begin as early as May 2002.

One garage will be located at Lot R and the other at Lot S/L (Bryant at Lytton). The only site affected by the recommended eminent domain proceeding is the Lot S/L structure. During basement excavation at this site, a construction method will likely be used that requires underground egress into the adjacent property at 420 Florence Street and 314 Lytton Avenue. Temporary above ground construction easements are also required to facilitate the garage construction immediately adjacent to the two properties. Negotiations with the property owners are still in process, but in order not to delay construction and incur escalating costs while temporary construction easements are obtained, staff is recommending City Council approval to proceed with the eminent domain process for the period of construction of the garages.
RECOMMENDATION
Staff recommends that the City Council approve and authorize the Mayor to: execute the attached Resolution determining that public interest and necessity require the acquisition of certain land for the period of construction of the garages; and, direct the filing of eminent domain proceedings for the period of construction of the garages, providing negotiations to acquire the property are not successful, for the Downtown Parking Structures (CIP 19530).

BACKGROUND
On June 4, 2001, Council approved consultant contracts that provided for the final design of two parking structures in the downtown area (CMR:263:01). The design of these garages was completed in February 2002, and was advertised for construction bids shortly thereafter. The bid opening date was March 26, 2002 and staff is currently determining the lowest responsible bidder. Construction on the garages could begin as early as May 2002.

Negotiations with the property owners are in process, but may not result in possession of the required rights-of-way necessary to award the contract and begin the project in a timely manner. The required right-of-way areas involve two parcels, which include a total of four temporary construction easements. Offers to both property owners have been made based on the appraised value of the temporary construction easements as per Government Code Section 7267.2. While the negotiations have progressed, there are still outstanding issues that may not be resolved soon enough for the project to begin as scheduled. Therefore, staff recommends commencing eminent domain proceedings for the following properties: Assessor’s Parcels 120-15-002 (314 Lytton Avenue) and 120-15-048 (420 Florence) consisting of temporary construction easements.

DISCUSSION
Eminent domain proceedings are necessary to assure City possession of the property in sufficient time to commence construction on a timely basis. Two steps are required to file eminent domain proceedings:

1) The City must send written notice by first class mail to each person whose property is to be acquired by eminent domain, notifying the owners of Council intention to adopt a Resolution of Necessity, determining that the public interest and necessity require the acquisition of such property and directing the filing of eminent domain proceedings. The record owners of the two subject parcels were notified by certified mail, dated March 14, 2002, that a hearing would be held April 1, 2002. No request to be heard has been received by the property owners.

2) The attached resolution must be adopted by a two-thirds vote of the members of the Council (6 votes).
The factors that the Council must consider at the hearing are as follows:

1. The public interest and necessity require the project, which is the construction of the parking garage.

Council confirmed that public interest and necessity require the parking garages when it directed staff to proceed with the design of the parking garages on October 18, 1999 (CMR: 391:99). Included in that report were the results of a survey of the adjoining neighborhoods north and south of University Avenue. The survey, conducted on April 27, 1999, indicated that approximately 1,600 non-neighborhood-resident vehicles were parked in the neighborhoods. The report indicated “Members of the Downtown Marketing Committee and Parking Committee of the Chamber of Commerce, as well as property owners, have voiced serious concerns regarding the parking deficit.” Due to the shortage of parking in the downtown area, there are currently 600 people on the waiting list for employee-parking permits.

2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Based upon policies established as part of the Downtown Study (1986) and a comprehensive plan for downtown parking approved in 1994, Council established a capital improvement program (No. 19530) to study the feasibility of building new parking structures on one or more existing surface parking lots in the University Avenue Parking Assessment District. In CMR:183:97, staff reported that an important element of the parking feasibility study was a comprehensive review of all downtown City parking lots, to assess the probability of using any single site as well as a combination of sites, to construct a parking structure(s). The study reached the conclusion that Lot R and Lots S/L were the only sites suitable for parking structures given the technical understanding developed during the feasibility study, reasonable cost considerations, and the proposed new parking structure relationship to the four existing parking structures.

3. The properties sought to be acquired are necessary for the proposed project.

The Lot S/L structure will have a basement level as well as a sub-basement floor. During excavation of the basement area, a retaining wall system needs to be installed that will keep the soil from the adjacent property from caving into the excavation area. The retaining wall is typically stabilized by either “tieback” or “soil nailing” methods in which metal rods are drilled through the retaining wall and anchored into the subject properties adjacent soil. It is similar in concept to anchoring one piece of wood to a stronger piece by driving in a screw or nail. The tiebacks or nails are left in the ground after excavation has been completed. Since
they serve no structural purpose, they can be removed or cut should the need arise in the future. Soil nailing and tieback systems are commonly used in construction and can be seen in Attachment B.

The project will also require the acquisition of a temporary above ground construction easement on each property. The garage will be built to the property line of both parcels. Work on the exterior walls of the garage in these areas will require the contractor to gain access to the adjacent property. In the case of the Lytton property, access would require use of an existing five-foot sidewalk that runs parallel to the building. The temporary construction area for the property at 420 Florence includes all of the landscape area on the exterior of the building. In addition to the need for the contractor to gain access to this area, the contractor will also install a protective covering over the path leading to the building to protect pedestrians. (The four temporary construction easements are described and shown on Attachment C.)

4. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

On February 4, 2002, staff met with and presented the owners of record of 420 Florence Street with an offer in the amount of the appraised value for the two temporary construction easements. In a letter dated February 7, 2002, an offer in the amount of the appraised value of the temporary easements was presented to the owners of record for 314 Lytton.

Construction of the basement is one of the first items of work on the contract and cannot be started until below ground easements on both parcels are obtained for either the soil nailing or tieback process. Approval of the Eminent Domain Action is recommended to avoid delays to the project schedule.

**RESOURCE IMPACT**
Funds for required rights-of-way for this project have been included in the Downtown Parking Structures project (CIP 19530).

**POLICY IMPLICATIONS**
These recommendations are consistent with existing City policies.

**TIMELINE**
The construction contract for the garages is anticipated to be presented to Council on April 15, 2002. Construction on the garages is anticipated to begin in May. Negotiations for the temporary construction easements or the eminent domain process must be completed before the construction on the garages can begin. It will take approximately 1.5 years to complete construction of both garages.
ENVIRONMENTAL ASSESSMENT
On December 20, 1999, the City Council adopted a resolution (7917) certifying the adequacy of the Environmental Impact Report (EIR) for the downtown parking structure projects and made the required CEQA findings.

ATTACHMENTS
Attachment A: Resolution of Necessity
Attachment B: Tieback construction
Attachment C: Description and map of Temporary Construction Easements

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