TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: UTILITIES

DATE: MAY 21, 2007 CMR:248:07

SUBJECT: RESPONSE TO COUNCIL’S QUESTIONS REGARDING THE CITY’S ACQUISITION OF A PERMANENT EASEMENT AT EL CAMINO PARK FOR THE EMERGENCY WATER SUPPLY AND STORAGE PROJECT

RECOMMENDATION
Staff recommends that Council review the response to Council’s questions and confirm its March 5 direction to proceed with the El Camino Reservoir Project.

BACKGROUND
At the March 5, 2007 Council meeting, the Council certified the Environmental Impact Report for the Emergency Water Supply and Storage Project (Project) and completed the first reading of five Park Improvement Ordinances (PIOs) for the park sites impacted by the Project. Council’s motion included a requirement that an advisory vote be held at an upcoming election on the use of the El Camino Park for the water storage project prior to the El Camino Park PIO taking effect and a requirement that Council approve the property acquisition (of the appropriate rights) for the El Camino Park Project site. In addition, Council requested that staff bring back information on park development at El Camino Park prior to the second reading of the El Camino Park PIO. Initially, Council requested information by April 9. However, insufficient information was available at that time to respond to Council’s requests and staff asked for additional time to collect data on the park development questions.

Two complicated legal issues have arisen as a result of Council questions. First, the acquisition of real property, whether by easement, lease or purchase, requires that the City take specific steps. These steps have not been initiated and will require negotiations with Stanford to determine the nature of the acquisition. Second, the payment of funds from an Enterprise Fund to the City or to Stanford is restricted by Proposition 218 and other laws. These questions do not
have simple answers and the responses in this memo are contingent upon the future type of transaction. Further, any transaction with Stanford and the ultimate payments to the General Fund will require Council approval.

DISCUSSION

El Camino Park Land Acquisition
Several land transactions will occur as a consequence of building a reservoir beneath El Camino Park: 1) payment for a permanent easement for the underground reservoir and associated well and pump station facilities. (Any transaction with Stanford is subject to negotiation and Council approval. The transaction described may be different from whatever agreement is ultimately reached with Stanford.); 2) an in-kind replacement cost payment for the temporary disruption of the use of the El Camino Park during Project construction; and 3) payment for the restoration of El Camino Park after construction is complete.

1) Permanent Easement
The City will attempt to obtain a permanent easement for the reservoir from the land owner, Stanford University. Currently, the City has a lease for El Camino Park that expires in the year 2033. Land easement acquisition costs will be negotiated with Stanford University. This process will be brought to Council for approval after the PIO has been approved and the advisory vote is complete.

2) In-Kind Replacement Cost
Project construction will require closure of El Camino Park for up to two years. The Water Fund will compensate the General Fund for the in-kind replacement cost of El Camino Park during this period. The payment, preliminarily estimated at approximately $2 million, will be used to ensure that park activities which normally occur at El Camino Park can continue to take place at other City parks while the Project is being constructed. The payment will be used to upgrade other City park and athletic sites, such as the Cubberley Community Center, so that those sites can accommodate the displaced activity from El Camino Park. The funding required for the offsite facilities will be determined when plans are developed for the construction of the reservoir. Estimating the required funding is dependant upon the length of the construction period and the placement of the reservoir on the park site. These two factors cannot be determined until the project engineering is completed.

3) El Camino Park Restoration
At the completion of construction, the Water Fund will restore the existing park facilities at El Camino Park. The preliminary estimate for restoration is between $2 and $2.5 million. The restoration of the park will include: complete in-kind restoration of the soccer and baseball fields, replacement of existing structures such as bleachers and backstops, restoration of landscaping and parking lot replacement.

RESOURCE IMPACT
The permanent easement costs, in-kind replacement costs and the El Camino Park restoration costs can be funded with revenue bond proceeds for the Project. The Water Fund will require an increase in water rates in fiscal year 2008-09 in order to cover the increased costs of the revenue
bonds. Proposition 218 requires that water ratepayers be given an opportunity to protest water rate increases. Notice will be given to customers of a public hearing that will be held prior to any water rate increases and informing them that they may protest water rate increases in writing. If a majority of customers file a written protest, the proposed rate increases will not be imposed.

**POLICY IMPLICATIONS**
This Project will ensure that water is available during emergencies and plays a vital role in developing emergency response plans. Emergency Planning has been identified as one of Council’s top four priorities. This Project also supports Comprehensive Plan Goal N-10, Protection of Life and Property from Natural Hazards, Including Earthquake, Landslide, Flooding, and Fire.

**ENVIRONMENTAL REVIEW**
An Environmental Impact Report (EIR) was prepared in accordance with CEQA for the Project. City Council certified the EIR on March 5, 2007 and it is considered complete and adequate and in compliance with CEQA.

**ATTACHMENTS**
A: March 5, 2007 Council Meeting Minutes

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