

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT:** SEE BELOW

**DATE:** 12-05-05

Approved

*Katy Allen*

Date

*12/6/05*

Council District: 6

**SUBJECT: LOS GATOS CREEK TRAIL – EASEMENT AND FEE PURCHASE FROM MCCARTHY AND GRAHAM**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution authorizing the purchase of portions of real property owned by Gerald R. Graham, Sr, Trustee, for the immediate reconveyance of the Graham property to James P. McCarthy and Jean M. McCarthy, the adjacent property owner, in exchange for an easement and a twenty four (24) month temporary construction easement, and authorizing the Director of Public Works to complete negotiation of the purchase agreements and to execute any additional documents necessary to complete these transactions as follows:

- (a) Gerald R. Graham, Sr. Trustee, in the amount of \$328,000 for 1) the acquisition of fee title of approximately 6,425 square feet of a portion of 812 West Home Street; and 2) payment for relocating and installing a new water meter in the area of the proposed Los Gatos Creek Trail project; and
- (b) James P. McCarthy and Jean M. McCarthy, Trustees, in the amount of \$40,000 together with the portion of the 812 West Home Street parcel for: 1) the acquisition of a surface trail easement of approximately 3,480 square feet; and 2) a twenty-four month temporary construction easement of approximately 1,242 square feet on an adjoining portion of the 802 West Home Street in the area of the proposed Los Gatos Creek Trail Project.

CEQA: Mitigated Negative Declaration: PP04-01-014.

## BACKGROUND

The Los Gatos Creek Trail Master Plan was adopted by Council in 1985. The Plan included trail development proposals along five reaches of the Los Gatos Creek in the City from Bascom Avenue to the Arena Green confluence with the Guadalupe River near downtown San José. The most recent phase of the trail from Blackford Elementary School to Meridian Avenue was dedicated and open to the public in June 1998.

This property easement purchase from the McCarthy's will allow continued development of the Los Gatos Creek Trail along Reach 4 from Lonus Street to Auzeais Avenue. A portion of this reach had previously been constructed in 1988 between Lonus Street and Route 280 as part of an adjacent private storage facility development near the creek. The Reach 4 project is scheduled for contract award in February 2006 with construction to begin in April 2006.

## ANALYSIS

Acquisitions of land, easements or other use rights will be required on portions of properties belonging to two owners for this particular reach of the Los Gatos Creek Trail. It is anticipated that the proposed trail segment to be located on the Del Monte former cannery site will be dedicated as part of the redevelopment of the property thereby making acquisition unnecessary. The McCarthy property is the last parcel needed for the completion of Reach 4 of the Los Gatos Creek Trail Project.

City staff met with Mr. McCarthy and proposed an alternative course of action whereby the City would pursue acquisition of the Graham parcel adjoining the west side of the McCarthy property. In addition, the City will provide Mr. McCarthy \$40,000 in funds to build a replacement parking lot on this land. In exchange, Mr. McCarthy would grant the City a permanent easement and a Temporary Construction Easement (TCE) on his property fronting the west bank of the Los Gatos Creek at the terminus of West Home Street needed for the proposed park trail. Mr. Graham agreed to this proposal on the condition that he retains approximately 30 feet of frontage for ingress and egress to his adjoining property.

### a. Graham Acquisition

The subject property represents a portion of a property located on the south side of West Home Street, east of Sunol Street. This is a 0.21 acres or 9,264 square feet parcel, which is zoned HI (Heavy Industrial). The portion of the property that the City is planning to acquire consists of 6,425 square feet and represents the easterly portion of the property. This property is rectangular and functional in shape with approximately 54 feet of frontage on West Home Street and a depth of slightly over 115 feet. This parcel is level at street grade with curbs, gutters, and sidewalk in place. This portion of the property is currently vacant, fenced and paved. City staff submitted to the owner of the property an offer of \$307,000. Subsequent negotiations were held, and City staff agreed to pay the owner an additional \$21,000 for the removal and relocation of a water meter located on the subject property for a total of \$328,000.

### b. McCarthy Acquisition

The subject site is roughly rectangular in shape. According to public records, the subject site contains 34,150 gross square feet of land area. However, a portion of this land area is located within Los Gatos Creek. The subject site is estimated to contain 22,000 net square feet of level land area and is improved with an industrial building housing two

business tenants, a marble manufacturing and sales company and a medical products warehouse operation. The property needed for the trail requires the partial acquisition of a permanent and temporary construction easement. The permanent easement will be located in the eastern portion of the larger parcel. This easement will be rectangular in shape, 30 feet wide, and will extend across the width of the parcel. The subject improvements are unaffected by the take, however; the take area will require the removal of seven parking spaces facing Los Gatos Creek. The proposed permanent easement area totals 3,480 square feet of the subject larger parcel. It contains approximately 2,118 square feet of level land area and 1,362 square feet of sloping creek bank area and creek bed. An estimated loss of value to the remainder property resulting from the loss of seven of fourteen parking spaces was calculated to be \$279,000. A TCE is also being proposed for the larger subject property. This TCE will be located adjacent to the west of the permanent easement and will contain a total of 1,242 square feet. The entire TCE area consists of level land. Although the overall term is for two years and allows the City to use the area for maneuvering during the construction project for a maximum of eight hours per day, the number of days of actual construction is limited to 25-35 days to accommodate Mr. McCarthy's concerns with the continuing operations of his tenants.

The value of the "developable" part of the permanent easement is estimated to be \$88,956 and the value for the TCE area to be acquired is estimated to be \$11,424 for a total of \$379,380. The cost of acquiring the Graham parcel (APN 264-11-030) is \$328,000.

City staff determined that an alternative approach of a three-party agreement would cost the City less than a purchase of the McCarthy easement including severance damages for the loss of seven parking spaces.

The City's purchase of the Graham property is a simultaneous transaction in which Mr. Graham's deed to the City, Mr. McCarthy's easement deed to the City and the City's deed to Mr. McCarthy will occur simultaneously in escrow.

A map showing the subject properties is attached as Exhibit A.

### **OUTCOME**

Approval of land acquisition will enable construction of the Los Gatos Creek Trail to begin as scheduled.

### **PUBLIC OUTREACH**

Four public workshops for the Los Gatos Creek Master Plan were held during the latter part of 1985, which included representatives of the neighborhood associations, private corporations,

private citizens, homeowners and public agencies. A Citizen's Advisory Committee was also formed to provide direction to master planning efforts. A community meetings was held on April 17, 2003 with interested neighborhood parties to address specific concerns related to Reach 4 trail alignments and development plan.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, City Manager's Budget Office, and the Departments of Parks, Recreation and Neighborhood Services and Planning, Building and Code Enforcement.

**COST IMPLICATIONS**

The compensation amounts of \$328,000 for Graham and \$40,000 for McCarthy are specified in the purchase agreements. In addition there will be additional escrow, title and closing fees of approximately \$10,000 with a total cost of approximately \$378,000.

Cost implications associated with the trail construction project will be discussed in future Council memoranda concerning those improvements.

Total budget estimate for Los Gatos Creek Trail land costs:	\$750,775
Amount of recommendation in this acquisition: (This amount includes escrow and closing costs estimated at \$10,000)	\$378,000
Estimated amount of remaining acquisitions:	\$0
Amount already spent in acquisitions:	\$372,775*
Estimated Budget Balance for Land Acquisition:	\$0

\*Amount already spent in acquisitions consists of \$265,875 for Reed & Graham; \$4,795 for Mary D'Anna, and \$102,105 for Alongi property

HONORABLE MAYOR AND CITY COUNCIL

12-05-05

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**BUDGET REFERENCE**

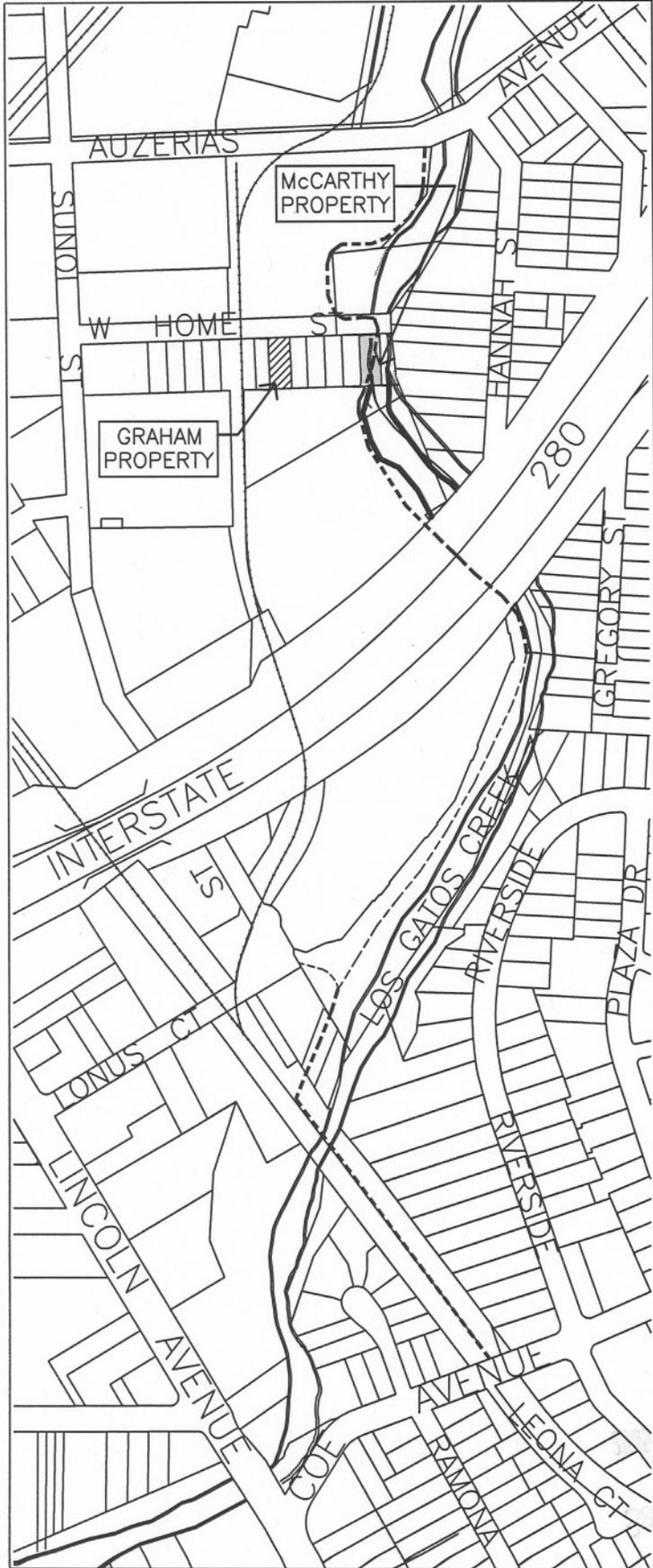
Fund #	Appn. #	Appn. Name	Total Appn.	Amount For Contract	Adopted Capital Budget	Last Budget Action (Date, Ord. No.)
471	6924	Trail: Los Gatos Reach IV	\$2,732,000	N/A	Page V-943	10-18-05 Ord. No. 27580
		<b>Total</b>	<b>\$2,732,000</b>	<b>N/A</b>		

**CEQA**

Mitigated Negative Declaration: PP04-01-014.

*Katy Allen*  
KATY ALLEN  
Director, Public Works Department

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Attachment



LEGEND

- ..... PROPOSED TRAIL
- - - - - EXISTING TRAIL
- McCARTHY TRAIL EASEMENT
- ▨ GRAHAM PROPERTY EXCHANGE

EXHIBIT A

City of San Jose

LOS GATOS CREEK TRAIL

Lincoln Avenue to Auzerias Avenue

2005