



COUNCIL AGENDA: 02-10-09
ITEM: 2.6

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: 01-30-09

Approved

Date

1/30/09

COUNCIL DISTRICT: 2
SNI AREA: N/A

SUBJECT: AUTHORIZATION FOR THE CITY MANAGER, OR DESIGNEE, TO NEGOTIATE AND EXECUTE A FIRST AMENDMENT TO THE TURNKEY PARKLAND AGREEMENT FOR TENTATIVE MAP NO. PT 05-108 WITH HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute a First Amendment to the Turnkey Parkland Agreement for Tentative Map No. PT 05-108 with Hitachi Global Storage Technologies, Inc. ("Hitachi") to accept an additional warranty with certain terms and conditions for the sports court surfaces that were installed in the 10.6 acre and 5.37 acre parks that varied from City approved plans and specifications.

OUTCOME

Approval of the recommendation in this memorandum will ensure that the City can accept and open the three new parks at the Hitachi site on schedule for March or April 2009.

BACKGROUND

Hitachi was formed in January 2003 when Hitachi Ltd. combined its hard drive disk operation with the newly acquired IBM hard disk drive business. Hitachi plans to continue all current local

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operations in San José, including its corporate headquarters, research, development, and manufacturing functions. A workplace strategy was developed shortly thereafter to more effectively support these operations in the most economically feasible manner. This strategy included two major elements: 1) a relocation of the Hitachi research and development, and corporate headquarters to a new location in east Evergreen as a leased facility with an option to purchase, and 2) a major repositioning of facilities at the Cottle Road site in South San José (also known as the old IBM Campus on Cottle Road).

In February 2004, Hitachi submitted an application to the City for an amendment to the General Plan (GPA), specific to the Cottle Road property located at 5600 Cottle Road ("Hitachi Property"). This application was the beginning of the master planning process for the Hitachi Property which consists of approximately 332 acres and proposed changes in the zoning of the property from strictly industrial uses to a mix of industrial, residential, and commercial uses.

In April 2004, Hitachi submitted an application for a planned development zoning (PDC04-031). The zoning application proposed that the Hitachi Property be rezoned from 332 acres of industrial property (including internal street system and a PG&E substation) to approximately 149 acres of industrial (retaining current uses), 145 acres of new residential and commercial uses ("Development Property"), and 38 acres of streets and PG&E substation.

The City Council unanimously approved both the GPA and rezoning on June 21, 2005, allowing the redevelopment of the Hitachi Property and development of a new mixed-use "transit village." Under the current zoning approved for the development (PDC04-031), the property is zoned for up to 2,930 multi-family, single family attached and single family detached residential units, including an estimated 168 low- and very low-income residential units.

As part of the approval of the Development Property, the City authorized Hitachi to construct the storm water detention facilities within the park sites for off-site run off from Hitachi's project to meet its requirements under City's revised National Pollutant Discharge Elimination System Permit from the Regional Water Quality Control Board and other local, state and federal regulations.

On June 3, 2008, the City Council approved the turnkey, environmental and maintenance agreements with Hitachi for the construction of the three park sites. On December 12, 2008, the City Council approved an amendment to the maintenance agreement for the parksites to ensure that Hitachi maintains responsibility for the maintenance of the stormwater detention facilities in the event a Community Facilities District is not created to take over maintenance responsibilities by March 31, 2010.

ANALYSIS

There are three public park sites to be constructed and specific amenities to be developed in each of the park sites are described below:

- The 10.6-acre community park, located towards the northwesterly portion of the transit village, will include a lighted ballfield, lighted soccer field, children's play lots, tennis court, half-basketball court, parking lot, picnic area, water detention basin within the ballfield, and other landscape amenities.
- The 5.37-acre neighborhood park (also known as "Linear Green") will include sports courts (volleyball, tennis and two basketball courts), a dog park, fitness path and exercise stations, and water detention basins.
- The 1-acre neighborhood park facility (also known as "Charlotte Commons") will provide two bocce ball courts, seating areas, and open turf areas.

Pursuant to the approved turnkey agreement, the three parks shall be designed and constructed in accordance with (1) the "City's Standard Specifications and Standard Details" dated July 1992; (2) the "City's Turnkey Park Standards for Design & Construction" dated September 2001; and (3) plans and project specifications submitted by Developer and approved by City for the three parks (collectively hereinafter "Project Specifications").

In November 2008, City materials testing results indicated that materials for the asphalt concrete surfacing of two (2) basketball courts and one (1) tennis court at the 10.6 acre and 5.37 acres park sites had failed the stability requirements as per the Project Specifications. City staff has evaluated the materials used for the surfacing and is willing to accept the installed materials in their current condition if the Developer provides an additional three (3) year warranty for the materials and workmanship of the asphalt concrete up to Fifty Thousand Dollars (\$50,000) in value, and agrees to repair defects identified during the warranty period. The additional warranty mitigates the concerns of the failed asphalt stability requirements. This three (3) year warranty would be in addition to the one (1) year warranty required in the turnkey agreement, so it would bring the total warranty period to four (4) years.

The Developer has agreed to provide this additional three (3) year warranty with a performance bond of Fifty Thousand Dollars (\$50,000) and, upon approval of this council action, the turnkey agreement will be modified to indicate that this asphalt concrete surfacing for the two (2) basketball courts and one (1) tennis court is acceptable with these terms and conditions outlined in this memo and the City will be able to accept and open the parks.

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EVALUATION AND FOLLOW-UP

Action taken by City Council on this item will allow staff to continue to work with Hitachi to accept and open three park parcels.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this does not meet any of the above criteria, this memorandum will be posted on the City's website for the February 10, 2009 City Council agenda.

A number of community meetings have been held with local residents and other interested parties to discuss the design/development of the Hitachi Transit Village concept. On April 15, 2006, a community meeting introducing the project zoning and planned development proposals was held at City Hall. A follow-up meeting in May 2006 further discussed the project proposal and solicited additional comment from the community.

On August 15, 2006, Hitachi, in conjunction with City staff, conducted a community meeting to specifically discuss proposed public recreation facilities associated with the Hitachi Transit Village proposal. This meeting was noticed to the community within 1,000 feet of the proposed development and noticed as a display ad in the San Jose Mercury News. Additionally, the Parks and Recreation Commission held two study sessions on February 21 and March 7, 2007, to discuss the proposed parks and recreation proposals for the Hitachi property. A mailer was sent to approximately 7,000 residents near the project site to advertise these meetings. The Commission conducted a final public hearing on the proposed Hitachi park sites on March 7,

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2007, at which time the Commission recommended approval of three conceptual parks sites as presented at the meeting.

COORDINATION

This item has been coordinated with the City Attorney's Office and the Department of Public Works.

COST SUMMARY/IMPLICATIONS

Annual maintenance costs for this project are in the process of being developed through the Community Facilities District (CFD) process and are not available at this time. It is anticipated that these costs would be covered by the creation of a CFD so there would be no net impact to the General Fund. However, if the CFD is not formed the City will have to include maintenance costs associated with the three built parks. These costs would begin in April 2010, at the expiration of Hitachi's maintenance commitment under the maintenance agreement.

CEQA

CEQA: Resolution No. 72772 adopted.


ALBERT BALAGSO
Director of Parks, Recreation
and Neighborhood Services

For questions please contact Matt Cano, PRNS Division Manager, at (408) 535-3580.