



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Albert Balagso

**SUBJECT:** SEE BELOW

**DATE:** 03-11-10

Approved

Date

3-12-10

**COUNCIL DISTRICT:** 2

**SUBJECT: APPROVAL OF THE SECOND AMENDMENT TO THE PARK MAINTENANCE AGREEMENT WITH HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.**

## RECOMMENDATION

Approval of the Second Amendment to the Park Maintenance Agreement between the City of San José and Hitachi Global Storage Technologies, Inc. ("Hitachi") to extend the term of the maintenance agreement from March 31, 2010 to June 30, 2011 for the RAMAC, Raleigh Linear Green, and Charlotte Commons parks.

## OUTCOME

Approval of the recommendation in this memorandum will ensure that Hitachi continues to fund and maintain the RAMAC, Raleigh Linear Green and Charlotte Commons public park sites until June 30, 2011, as well as the storm water detention facilities located within the park sites beyond June 30, 2011. In the event a Community Facilities District ("CFD") is not created to take over maintenance responsibilities of the park facilities on or before June 30, 2011, the maintenance of the parks, with the exception of the storm water detention facilities located within the parks, will become the responsibility of the City.

## BACKGROUND

In February 2004, Hitachi submitted an application to the City for an amendment to the General Plan (GPA), specific to Hitachi's Cottle Road property located at 5600 Cottle Road ("Hitachi Property"). This application was the beginning of the master site 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 an 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, and 38 acres of streets and PG&E substation.

City Council unanimously approved both the GPA and rezoning on June 21, 2005, allowing for 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 was zoned for up to 2,930 multi-family, single family attached and single family detached residential units, and included the development of three City parks. As part of the approval of the development of the Hitachi property, the City allowed Hitachi to construct three separate 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 a turnkey park, environmental and maintenance agreement with Hitachi for the design and construction of the three park sites, including terms for the construction and maintenance of the detention facilities on the park sites. The park sites, RAMAC Park, Raleigh Linear Green and Charlotte Commons, were constructed in late 2008 and early 2009, and opened for public use in spring 2009.

## ANALYSIS

On June 3, 2008, the City Council approved a maintenance agreement with Hitachi that provided for Hitachi's temporary maintenance of the parks and storm water detention facilities until March 31, 2010. The agreement was to terminate before March 31, 2010 if a CFD was created to take over the maintenance responsibilities of the park sites, including maintenance of the storm water detention facilities.

The First Amendment to the Park Maintenance Agreement was approved by Council on December 16, 2008, and required that, if a CFD is not created by March 31, 2010, Hitachi would be obligated to continue to maintain the storm water detention facilities until the storm water detention facilities cease to function or operate as an off-site drainage for its project. A CFD has not been created to date. Hitachi is obligated under the First Amendment to maintain the park facilities until March 31, 2010 and the storm water detention facilities beyond that date or until a CFD is created to take over maintenance responsibility.

This Second Amendment to the Park Maintenance Agreement will extend Hitachi's commitment to provide maintenance services for RAMAC Park, Raleigh Linear Green and Charlotte Commons beyond March 31, 2000 to June 30, 2011 and continue to require that Hitachi maintain the storm water detention facilities until such time as a CFD is created to take over the maintenance.

### EVALUATION AND FOLLOW-UP

Action taken by City Council on this item will authorize Hitachi to continue maintenance of the three park sites, and will allow further time in which to create a CFD for the long-term maintenance of these park sites.

### 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)**

This memorandum does not meet any of the criteria listed above and will be posted on the City's website for the March 9, 2010 City Council agenda.

### COORDINATION

This item has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

### FISCAL/POLICY ALIGNMENT

Not applicable

### COST SUMMARY/IMPLICATIONS

It is anticipated the annual maintenance costs for these facilities would be covered by the creation of a CFD so there will be no net impact to the General Fund. However, if the CFD is

not created, or if it is created and does not include maintenance of the park facilities, the City will be obligated to maintain the facilities. It is currently anticipated that the annual operating and maintenance impact of these facilities would total approximately \$322,000 annually with an additional first years start up cost of \$120,000. These costs would begin in July 2011, at the expiration of Hitachi's maintenance commitment under the current maintenance agreement. This funding was not included in the Preliminary 2011-2015 General Fund Forecast, released October 30, 2009.

**BUDGET REFERENCE**

Not applicable

**CEQA**

CEQA: Resolution No. 72772.



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For questions please contact Matt Cano, Division Manager, at 408-535-5580.