



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh
Albert Balagso
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: 03-14-11

Approved

Date 3/18/11

COUNCIL DISTRICT: 6
SNI: Burbank/Del Monte

SUBJECT: APPROVAL OF AN AGREEMENT FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 802 HOME STREET AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND

RECOMMENDATION

1. Approve the purchase agreement with James and Jean McCarthy, as trustees, in the amount of \$1,675,000 for the purchase of land located at 802 West Home Street, San José, CA, (APN No. 264-11-112) for the future expansion of the Del Monte Park; and
2. Adopt a resolution authorizing the City Manager to execute the purchase agreement and all other documents necessary to complete the transaction, to settle any relocation claims stemming from the City's purchase of this property up to a maximum of \$196,625, and to make the necessary payments to hold the site vacant if the tenants vacate early to a maximum of \$278,375; and
3. Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (375):
 - a. Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$2,150,000 for the West Home Street Land Acquisition; and
 - b. Decrease the Reserve: Del Monte Park Land Acquisition and Development by \$2,150,000

OUTCOME

Acquisition of the subject property will allow for the expansion of the Del Monte Park, and it will assist in meeting the goal of adding parkland within the Burbank/Del Monte community in Council District 6. The property at 802 West Home Street is immediately adjacent to Del Monte Park and its purchase will allow the City to increase the size of the park, which will better serve the needs of the community.

BACKGROUND

For the past few years, the Buena Vista, Sherman Oaks, Willow Glen, and Shasta Hanchett Neighborhood Associations and the Burbank/Del Monte Neighborhood Advisory committees (NAC) have worked very hard to locate more park space for their respective neighborhoods. The neighborhood organizations have also been very diligent in working with park staff and developers to ensure that new parks meet the needs of the surrounding/existing neighborhood communities. City Council approved the Del Monte Park Master Plan on September 9, 2008 and this park is identified as a "Top 10" priority in the Burbank/Del Monte Strong Neighborhoods Initiative Action Plan. This action solidified the needs of the community. Phase I construction will include a bathroom facility and a "dog run." Del Monte Park currently covers around 2.2 acres between Auzerais Avenue and Los Gatos Creek, and the goal is to expand the park to at least four to five acres in the future. The acquisition of the subject property brings that goal closer to reality.

ANALYSIS

The subject site is roughly rectangular in shape. According to public records, the subject site contains 39,775 gross square feet of land area. However, a portion of the site falls within the banks of adjacent Los Gatos Creek and a portion is encumbered by a trail easement in favor of the City of San José. The property is also encumbered by an easement in favor of Pacific Gas and Electric Company for public utilities and in favor of the Santa Clara Valley Water District for water management and storm drainage purposes. The presence of these easements does not affect the development of the property as a park as such development is presently contemplated. The remaining net site consists of approximately 26,500 square feet of level, usable land area. The subject site is improved with an industrial building housing two business tenants, a marble manufacturing and sales company and a medical products warehouse operation, whose lease terms are either on month-to-month or are to expire later this year. There is also a cell phone antenna lease located on the outside of the property, the term of which is subject to an extension of up to approximately 15 years.

The current tenants, as well as the property owner, may qualify for relocation benefits under applicable law. The amount of the benefits is to be determined by the complexity of the move, specifically in the case of the marble company. Based upon the potentially applicable categories of eligible expenses and the nature of the businesses, staff estimates the total relocation costs for eligible recipients would be approximately \$150,000, but should not exceed \$196,625.

In order to accommodate the property owner's desire to close this transaction as part of a tax-deferred exchange, the escrow period could extend for up to two years. In the event the current tenants vacate the premises prior to the close of escrow, the purchase agreement provides that the City will compensate the property owner to hold the site vacant in accordance with the City's standard practice. Such compensation would amount to a cost to the City of \$11,598 per month for a total potential exposure over the escrow period of approximately \$278,375. Holding the property vacant may reduce the likelihood of the City incurring possible additional relocation expenses and other responsibilities; however, this provision has been required by the property owner as a condition to proceeding with the sale.

The Environmental Service Department (ESD) performed a Phase I Environmental Site Assessment in November 2008. Based upon the historical uses (marble manufacturer) there were some concerns about past hazardous materials usage on the property. In June 2010, ESD performed a more thorough review of the property which included analyzing the shallow soil for solvent contamination. The results were either non-detectable or below environmental screening levels for the environment or public health. Based upon these findings, ESD does not recommend a Phase II Investigation of the property.

The City had the property appraised in November 2008. The appraisal concluded the market value of the fee simple interest in the subject property at the time to be \$1,300,000. In subsequent negotiations with the property owner in which he provided additional lease information staff agreed to a purchase price of \$1,675,000. The lack of lease information prevented the City's appraiser from utilizing the income valuation approach leaving him with no option other than to use the less accurate sales comparable approach. The agreed upon settlement precludes the necessity of having to resort to court condemnation proceedings.

Particularly in light of the potential extended escrow period, the purchase agreement provides that the City Manager may execute amendments to the agreement on behalf of the City so long as such amendments do not require further appropriation.

A map showing the subject property is attached as Exhibit A. The City is in discussions with developers to continue to expand the park in the future and will continue to pursue this opportunity. The current parcel under consideration is the first step towards the future expansion. The development of the 2.2 acres currently owned by the City is on hold pending the identification of construction and maintenance funding. Del Monte Park is one of the 12 new park and recreation capital projects that were approved to be delayed on February 9, 2010 in order to avoid the impact of ongoing operations and maintenance costs to the General Fund. Parks, Recreation and Neighborhood Services Department will return to City Council with recommendations to proceed with the development of the expansion of the park should funding be identified for design, construction and the park establishment period.

EVALUATION AND FOLLOW-UP

Staff will seek City Council approval at a later date for the appropriation of funds for the design and construction of the park.

PUBLIC OUTREACH

- X **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)**

Staff initiated a public outreach process and worked with affected community members and neighborhood groups in developing the concept plan for the new park. Staff held community meetings on October 10, 2007 and on February 12, 2008 to solicit community input and feedback regarding design concepts and ideas. In addition, on January 16, 2008 staff held a focus group meeting with Del Monte Park Historical Elements Subcommittee, which is composed of core community members. At the community meeting in February 2008, the community soundly endorsed staffs recommended concept design for the park.

This follows the standard community outreach process for capital projects, including master plan developments. The Parks and Recreation Commission heard this item on May 21, 2008 and approved the Del Monte Park Master Plan on June 18, 2008.

This item meets Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This memorandum will be posted on the City's website for the April 5, 2011 Council agenda.

COORDINATION

This project has been coordinated with the City Attorney's Office, and the Council District 6 Office.

COST SUMMARY/IMPLICATIONS

1. AMOUNT RECOMMENDED FOR THE ACQUISITION:

Amount of City's offer to be deposited into escrow:	\$1,675,000
Amount of relocation costs	\$196,625
Amount of "Rent to hold Vacant"	\$278,375

2. SOURCE OF FUNDING: Del Monte Park Land Acquisition and Development Fund – (375)

3. OPERATING COST: This memorandum provides funding for the purchase of land for the future development of Del Monte Park. The 2012-2016 General Fund Forecast includes funding of \$39,000 beginning in 2015-2016 for Del Monte Park for operations and maintenance costs for the initial 2.2 acres currently owned by the City. This cost does not reflect the estimated operations and maintenance costs for the expansion project. Once the design of the facility has been completed, the operating and maintenance impact will be re-examined and revised accordingly.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	Total Appn.	Amount of Recommendation	Adopted 2009-2010 Capital Budget Page	Last Budget Action (Date, Ord. No.)
Funding Available						
375	8237	Reserve: Del Monte Park Land Acquisition and Development		\$5,225,000	V-543	06/29/10 Ord. No. 28765
Total Funding for Agreement				\$2,150,000		

CEQA

CEQA: PP08-220

/s/

KIM WALESH
Director, Office of Economic Development
Chief Strategist

/s/

ALBERT BALAGSO
Director of Parks, Recreation and
Neighborhood Services



JENNIFER A. MAGUIRE
Budget Director

For questions please contact NANCI KLEIN, DEPUTY DIRECTOR, OFFICE OF ECONOMIC DEVELOPMENT, at 535-8181.

Exhibits:
A - Real Property Map

EXHIBIT A

802 West Home Street

