

AGENDA  
REGULAR MEETING  
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, July 20, 2010

D. BUSINESS BEFORE THE BOARD

4. LAND DIVISION

- a. Authorization to Exercise the Option and Accept, Appropriate and Transfer Funds for the Acquisition in Partnership with the East Contra Costa County Habitat Conservancy of the 460.64± acre Eastern Development Corporation/Poon Associates Property: Black Diamond Mines Preserve  
(Wenninger/Doyle)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize staff to exercise the option and to accept, appropriate and transfer funds for the purchase from the Eastern Development Corporation and Poon Associates of the 460.64± acre property, located at 8040 Black Diamond Way, in unincorporated Contra Costa County between the cities of Pittsburg and Clayton. This acquisition is being completed in partnership with the East Contra Costa County Habitat Conservancy ("Conservancy") with funding through the Wildlife Conservation Board.

REVENUE/COST

The property may be acquired for a total of \$2,763,840, as negotiated among the parties, plus acquisition costs as described below. Pursuant to the previously approved Option, Purchase and Sale Agreement, two option payments totaling \$552,000 (from Measure AA Interest/Diablo Metro Area) have been deposited into escrow and released to the property owners. Prior to close of escrow the Park District will deposit into escrow an additional \$968,115, and the Conservancy will deposit into escrow the remainder of the purchase price, or \$1,243,725, funds from a Section 6 federal grant being administered by the California Wildlife Conservation Board. Close of escrow was originally scheduled to occur on or before September 1, 2010; however, the owners have requested an earlier close on August 1, 2010, which staff will endeavor to accommodate.

This action accepts, appropriates and transfers funds for associated acquisition expenses.

TRANSFER FROM:

Designated for Land Acquisition—Measure WW (22900WW00)	\$1,112,315
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**TRANSFER TO:**

Black Diamond/Eastern Dev. Corp-ANG (CIP 214700WP09)	
EBRPD Remaining Purchase Price	\$ 968,115
Title & Escrow Costs	10,000
Site Cleanup	5,000
Demolition Costs	52,000
Fencing and Road Grading	75,000
Weed Abatement	<u>2,200</u>
Total	\$1,112,315

Previous Board Actions \$ 612,000

**ACCEPT AND APPROPRIATE:**

Conservancy Purchase Contribution	<u>1,243,725</u>
Total Project Cost	\$2,968,040

**BACKGROUND**

On November 6, 2007, by its Resolution No. 2007-11-265, the Board of Directors authorized staff to begin negotiations with the owners of the subject property. On September 15, 2009, by its Resolution No. 2009-9-257, the Board authorized staff to enter into an option, purchase and sale agreement for the acquisition and to transfer funds for the initial option payments and associated costs. On February 16, 2010, by its Resolution No. 2010-2-042, the Board authorized the transfer of an additional \$25,000 for an environmental assessment and additional staff time.

The 460.64-acre subject property (APN's 075-080-007, 075-200-002 and -009) is located immediately east of the City of Clayton about 0.7 miles north of Marsh Creek Road. The property address is 8040 Black Diamond Way, Pittsburg, in unincorporated Contra Costa County. The terrain across the property is predominantly moderately to steeply sloping, with limited areas of lesser slopes and level ground. The northerly half of the property is comprised of the lower portions of a ridge that increases in elevation from about 640 feet in the vicinity of the westerly property line to a maximum of about 1,520 feet at the easterly boundary line. There are several well-defined hilltops in the northeasterly area with elevations ranging from 1,260 to 1,315 feet; this portion of the property includes some of the steepest gradients. The central portion of the property is bisected by approximately 1/2 mile of Irish Creek plus numerous unnamed seasonal drainages. Irish Creek is part of the Mount Diablo Creek Watershed. Early settlers in Irish Canyon raised food crops which were sold to miners at the nearby coal mines.

There are several established stock ponds on the subject property; two are located in the most southeasterly corner, and another is situated in the vicinity of the residential and agricultural improvements located in the south-central portion of the property. Historically used for cattle grazing, the subject property is primarily open grasslands. Oak woodland habitat is chiefly concentrated in the numerous ravines across the property and within Irish Canyon. The condition

of the grassland vegetation across the property is consistent with an agricultural grazing operation. The property is currently leased year-to-year for seasonal cattle grazing. The current grazing lease will expire on August 31, 2010. The lessee is responsible for keeping perimeter and cross fencing in good order and carries liability insurance.

The subject property contains one single-family residence and a number of agricultural outbuildings located in the south-central area of the property west of Irish Canyon. The 1950's residential structure is of wood frame construction and includes two bedrooms and one bathroom. The 1,083-square-foot residence is in very poor condition with much deferred maintenance. The agricultural outbuildings include a 250-square-foot shed and a 3,285-square-foot cattle barn. These improvements were constructed in the early part of the 20<sup>th</sup> century, are in very poor condition and should be razed. Electrical service has been extended across the property to serve the existing residential/agricultural building compound. The residence was served by a septic system; however, the system is no longer in workable condition. During the initial site inspection, staff observed that a number of abandoned vehicles, personal property and a significant amount of debris littered the property. The District has shared in the cost of removal, and the property is now in acceptable condition.

Water is supplied to the residence and barns from a well located several hundred feet to the southwest; this well is spring-fed and serves a small storage tank located directly to the south of the residence via a three-quarter inch steel pipe. There are six other springs located on the subject property in the general vicinity of the northwesterly, easterly, and the southerly property lines. Another spring together with a windmill is located in the area of Irish Canyon; the windmill does not appear to be operable. There are three other existing wells which were noted that are situated immediately to the east of the existing residence. The operability of each of these wells is unknown.

Access to the subject property is via a 60-foot-wide easement which runs from the west boundary of the subject property to Clayton Road. Also known as Black Diamond Way, this access easement is used by the Park District as a recreational trail (Black Diamond Trail), which continues in a northeasterly/southwesterly direction from the subject property along the old Nortonville Road alignment, ultimately providing access to the Black Diamond Mines Regional Preserve. Pursuant to a judgment which was entered in Contra Costa County Superior Court, the owner of the subject property has rights of ingress and egress over the easement. The judgment also stipulates that up to four residential units on the subject property may be served by this easement. Several easements encumber the property, including an easement for a drainage outfall in favor of the City of Clayton; under the terms of the easement, it is the city's responsibility to maintain these facilities which serve the adjacent development.

The subject site is located adjacent to the west of the Chopra property, which was recently acquired by Save Mount Diablo, and adjacent to and southwest of Black Diamond Mines Regional Preserve. The subject property is immediately east of the Oakhurst Country Club, Clayton Open Space lands and newer residential subdivisions. The property is located immediately east of the Contra Costa County Urban Limit Line.. This acquisition will protect the site's important species

habitat from future development and maintain connectivity between Save Mount Diablo's Chopra property and Irish Canyon to the east, Black Diamond Mines Regional Preserve to the northeast, and ranching properties located to the north and east of the subject property.

The Eastern Development Corporation/Poon Associates property offers opportunities for public access, as well as protecting an additional 460± acres of land adjacent to Black Diamond Mines Regional Preserve. The property has excellent recreational values with loop trail opportunities connecting to city-owned property and the Black Diamond to Mt. Diablo Trail. The main Irish Canyon fire road is level and meanders along the creek with large oaks providing a shaded canyon trail. The property is also a priority acquisition for the East Contra Costa County Habitat Conservancy, which has agreed to provide funding for 45% of the purchase price.

Staff recommends that the subject property be placed into land bank status until a Land Use Plan for the new properties being acquired in partnership with the Conservancy can be completed. An area-wide HCP management plan will be negotiated with the Conservancy to provide funding to address operational impacts as further detailed in the attached acquisition evaluation. When the plans for management and restoration have been completed, it is likely that additional funds will need to be appropriated for fencing and to replacing the existing bridge over Irish Creek to accommodate emergency vehicles.

#### ALTERNATIVES

No alternatives are recommended.