

AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, August 11, 2009

C. BUSINESS BEFORE THE BOARD

3. LAND DIVISION

- a. Authorization to Execute the Purchase and Sale Agreement with Chabot Dunsmuir LP for a Conservation Easement over the 64.41± acre Chabot Dunsmuir Property, and to Transfer Funds Therefor: Oakland Regional Trails/Dunsmuir Heights to Chabot Regional Trail (Wenninger/Doyle)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize staff to execute the Purchase and Sale Agreement with Chabot Dunsmuir LP (“Seller”) for a conservation easement over the 64.41± acre Chabot Dunsmuir Property located northwest of the Dunsmuir Ridge in the City of Oakland and to transfer funds therefor.

Measure WW places a high priority on public access and preservation and restoration of urban creeks. This acquisition preserves urban open space, provides future trail access and protects two drainages in the San Leandro Creek watershed. This purchase is the first WW urban creek acquisition project.

REVENUE/COST

The Chabot Dunsmuir property may be acquired for a total of \$2,925,000, based on its appraised fair market value, plus acquisition costs as described below. Pursuant to the above referenced Purchase and Sale Agreement, the District will contribute \$1,900,000 in exchange for a conservation easement and trail easement over the property, and the City of Oakland (“City”) will contribute the balance (\$1,025,000) and hold the underlying fee title. The District made an initial, nonrefundable payment of \$100,000 releasable after July 31, 2009 to the Seller as authorized by the Board on June 2, 2009. This subsequent action seeks authorization to make a second nonrefundable and releasable payment of \$500,000 by September 1, 2009, and to fund closing of escrow for the conservation easement on or before December 31, 2009.

Staff previously requested that the Board allocate a total of \$126,300 to fund approximately \$26,300 in staff time, appraisal fees and title fees, and a \$100,000 initial payment. This action transfers an additional \$1,800,000 for the balance of the conservation easement purchase price, and \$14,000 for staff time and escrow fees, for a total transfer of \$1,814,000.

This item makes the following transfer:

TRANSFER FROM:

Designated for Land Acquisition Measure WW (229900 WW XX)	<u>\$1,814,000</u>
Total	\$1,814,000

TRANSFER TO:

Capital Project Account: Oakland Regional Trails/ Chabot Dunsmuir LP (CIP 215500)	
Second Payment	\$ 500,000
Remainder of Purchase Price for Conservation Easement	1,300,000
Escrow Fees	6,000
Staff Time	<u>8,000</u>
Total	\$ 1,814,000

An application to the Coastal Conservancy for a land acquisition grant to partially fund this transaction is pending. Should the grant be awarded, the amount of Measure WW monies required to fund the conservation easement acquisition will be reduced accordingly.

BACKGROUND

On June 3, 2008 by Resolution No. 2008-6-140, and on June 18, 2008 by Resolution No. 2008-6-156, the Board of Directors authorized staff to begin negotiations on the Chabot Dunsmuir LP property for a potential purchase in partnership with the City of Oakland. On June 2, 2009 by Resolution No. 2009-6-147, the Board authorized staff to enter into a Purchase and Sale Agreement for a conservation easement over the Chabot Dunsmuir property, and to enter into a Memorandum of Understanding ("MOU") and Grant of Recreational Trail Easement with the City. In exchange for the District contributing \$1,900,000 for a conservation easement over the property, the City will contribute \$1,025,000 to purchase fee title interest, and will grant the District a trail easement for the proposed Dunsmuir Heights to Chabot Regional Trail after escrow is closed on this property.

Located northwest of the Dunsmuir Ridge in the City of Oakland, the 64.41-acre subject property abuts the South Hills residential area to the north and east, city open space including the Dunsmuir House and gardens to the west, and the Lake Chabot Municipal Golf Course to the south. Located on a prominent ridgeline, the property is highly visible from the Dunsmuir Estate and the District's Peralta Oaks Court headquarters building. Anthony Chabot Regional Park is on the ridge further to the property's east, and Lake Chabot Regional Park is south of the golf course further to the property's southeast. The property affords views across the southeastern portion of the City out to San Leandro Bay and the San Francisco Bay.

The property represents an opportunity for a significant urban creek acquisition and will be the Park District's first Measure WW urban creek project. Vegetation is primarily oaks and bay laurels, with creeks and potential whipsnake habitat. Historically the property has been used

informally as neighborhood open space. The terrain consists of moderate to steep hills, with elevations between approximately 200 and 600 feet. The Hayward Fault crosses the southwest corner of the property.

The property is comprised of two large tracts mapped in the late 1940s and 1950s but never subdivided, and seven irregularly-shaped assessor's parcels with frontage on three possible access routes: Malcolm Avenue, a dedicated public street; Lochard Street, a private road owned and maintained by the Chabot Park Highlands Homeowners Association ("HOA"); and an easement off Kerrigan Drive, also a private road owned by the HOA. The property is zoned "Hillside Residential."

Local residents have long opposed development on the subject parcel. During public hearings prior to the November 2008 passage of Measure WW, the Board of Directors and District staff were strongly urged by neighbors to include the acquisition of this property in the list of projects for Measure WW funding. Because of the site's important open space, potential for watershed protection and recreational opportunities, as well as its designation as a high priority Measure WW acquisition, District staff has worked in cooperation with City officials and staff to negotiate a joint acquisition of the property. Under the terms of the proposed MOU with the City, the District will acquire a conservation easement and the City will acquire fee ownership subject to that easement. Once escrow has closed, the City will also convey a trail easement to the District for the future Dunsmuir Heights to Chabot Regional Trail. A portion of the trail will cross the subject property, and the rest will be constructed on the City's adjacent golf course. The timing of the construction of the trail will be at the District's sole discretion.

In addition to the partnership with the City, staff is pursuing grant funding to aid in the purchase of the subject property. Terms of the agreement provide that escrow close on or before December 31, 2009. Approval of the funding for this acquisition, including the second payment, is the subject of this Board action. After close of escrow, the City will be responsible for maintenance of the property, while the District's responsibilities will be limited to constructing, operating and maintaining the proposed Dunsmuir Heights to Chabot Regional Trail. There will be no operational impacts to the District until the new trail has been constructed.

ALTERNATIVES

No alternatives are recommended.