

APPROVED  
OCT 16 2013

REPORT OF GENERAL MANAGER

NO. 13-263

DATE October 16, 2013

BOARD OF RECREATION  
AND PARK COMMISSIONERS

C.D. 15

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: 50 PARKS INITIATIVE – EXIT PARK (PRJ20780) (406 NORTH GAFFEY STREET) - FINAL AUTHORIZATION TO PROCEED WITH THE ACQUISITION OF PROPERTY FOR THE DEVELOPMENT OF A PARK AND EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

R. Adams	_____	K. Regan	_____
H. Fujita	_____	*M. Shull	<u>mf</u>
V. Israel	_____	N. Williams	_____

[Signature]  
General Manager

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

RECOMMENDATIONS:

That the Board:

1. Adopt a Resolution, substantially in the form on file in the Board Office, which authorizes staff to request the assistance of the Department of General Services (GSD) and other City of Los Angeles (City) Department(s) entities, per Charter Section 594(a) and (b), in obtaining fee title to a parcel totaling 14,498 square feet or 0.33 acres, Los Angeles County Assessor's Parcel Number (APN) 7448-009-029, located at 406 North Gaffey Street, San Pedro, California 90731;
2. Authorize the Department's Chief Accounting Employee to process or instruct GSD and/or any other appropriate City Department to expedite the processing of a demand to the City Controller for one (1) parcel (APN 7448-009-029) in the estimated amount of \$804,346.00, payable to Stuart Title Guaranty Company from AB1290 funds and/or Quimby funds designated for the acquisition of this parcel;
3. Authorize the reallocation of \$50,000.00 in Quimby Fees, previously allocated for the Park Expansion and Development (PRJ20063) project at Welcome Park, approved on May 5, 2010, per Board Report No. 10-105, to the Exit Park Acquisition (PRJ20780) project at Welcome Park;

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4. Approve the allocation of \$50,000.00 in Quimby Fees from Welcome Park Account No. 89460K-WU for the Exit Park Acquisition (PRJ20780) project at Welcome Park, as described in the Summary of this Report;
5. Find that the project is exempt from the provisions of the California Environmental Quality Act;
6. Grant final approval to purchase the property upon the completion of the preliminary acquisition activities, contingent on the following conditions, some of which have been updated from the Preliminary Approval granted by the Board at its June 27, 2013 meeting:
  - a. Funding will be available for the acquisition of the properties through AB1290 funds under the control of GSD;
  - b. Appropriate California Environmental Quality Act (CEQA) documentation will have been completed and satisfied prior to the close of escrow;
  - c. All environmental assessments, Phase I and Phase II, if needed, will have been completed and satisfied prior to the close of escrow;
  - d. Negotiation of a draft agreement, between the City of Los Angeles and Equilon Enterprises, LLC dba Shell Oil Products Company US ("Equilon"), pursuant to which Equilon will remediate site contamination caused by prior use of the site as a gas station to the standards required by the California Water Quality Control Board, and agree to indemnify the City for all future liability caused by such prior use;
  - e. Class "A" Appraisal will have been prepared and approved by GSD; and,
  - f. GSD will have negotiated a purchase price for Board approval, which is consistent with their professional opinion of the market value.
7. Authorize the Board President and Secretary to execute the Purchase and Sale Agreement (PSA) being finalized GSD and the City Attorney's office subject to the approval of the City Attorney as to form, and upon completion and approval of all conditions indicated in this Board Report;
8. Authorize the Board President and Secretary to execute the proposed Indemnification Agreement (IA) that the City Attorney's Office is reviewing, negotiating, drafting, and finalizing subject to the completion and approval of all the conditions indicated in this Board Report;

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9. Authorize the Department's Chief Accounting Employee, GSD and/or other appropriate City Department to make technical corrections as necessary to establish accounts to acquire and or reimburse accounts for the project site, and to accept, and transfer the necessary monies to fund the acquisition to the appropriate City Department's accounts or escrow company account in order to expeditiously complete the acquisitions of the Exit Park project;
10. Authorize the Board Secretary to execute the escrow instructions and to accept the grant deeds for the subject property, as approved by the City Attorney, which shall be set apart and dedicated as park property in perpetuity; and,
11. Direct staff to file a Notice of Exemption with the Los Angeles County Clerk.

SUMMARY:

On June 27, 2013, the Board, through Board Report No. 13-169, granted preliminary authorization to proceed with the acquisition of a parcel located at 406 North Gaffey Street, San Pedro, California 90731 with APN 7748-009-029 (See Exhibits A-1 and A-2). The subject parcel is currently vacant and measures approximately 14,498 square feet or 0.33 acres.

Since 2008, the Department of Recreation and Parks (RAP) staff in cooperation with staff from Council District 15 (CD15) and the Community Redevelopment Agency (CRA), and with the assistance of the City Attorney's Office (City Attorney), has been working towards the acquisition of the parcel for the proposed development of "Exit Park". The initial concept for this project was to have the CRA acquire the parcel with AB1290 funds and transfer the property to RAP for the development of the park. On February 1, 2012, the CRA was dissolved as part of Assembly Bill 1x26 (AB 1x26) which dissolved all redevelopment agencies in California. With the dissolution of the CRA, RAP with the assistance of the City Attorney, GSD and Council District 15, continued with the acquisition process. It should be noted that in 2009, City Council approved the transfer of the funds associated with this acquisition from the CRA to the City, more specifically GSD.

The subject property is located on the northeast corner of North Gaffey Street and West O'Farrell Street in a mixed residential and commercial area of San Pedro. Currently, there are no structures on site, however, there are remnants of concrete foundations and asphalt pavement, as well as, overgrown vegetation and weeds (See Exhibit B). Records show that the property was redeveloped as a gas station in the early 1960's and was operated as such until it was demolished in 2007. It has been unoccupied since 2007.

The property is surrounded by residential properties with a commercial building located towards the south side. RAP's Welcome Park is located to the west across North Gaffey Street (See Exhibits A-1 and A-2).

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Environmental concerns were identified with the historical use of the property. More specifically, the soil and groundwater contamination. Several environmental studies were ordered by the CRA to determine the extent and severity of the contamination.

Regulatory records from the Los Angeles Regional Water Quality Control Board (LARWQC) show that there was a release of gasoline in 2000 which impacted the soil and groundwater. Equilone Enterprises dba Shell Oil Products US (Shell) was identified as the responsible party by the LARWQC. Subsurface soil, groundwater assessment, periodic groundwater monitoring, and laboratory analysis reports have been prepared from 2005-2013. In 2011, a remedial action plan was approved by the LARWQC. This plan recommended a dual-phase soil and groundwater remediation system for the property. Six (6) soil-vapor extraction wells and thirteen (13) dual phase wells were installed on the property. In April 2012, the LARWQC approved Monitored Natural Attenuation (MNA) as a remedial approach in lieu of dual-phase soil and groundwater remediation.

It should be noted that the subject property is privately owned by a third party. The City will be purchasing the subject property from this third party. But since the contamination of the soil and groundwater occurred during the time that the property was owned and operated by Shell, Shell is deemed the responsible party for the clean-up of the site.

As City staff proceeded with their efforts to perform their due diligence on this acquisition, staff had the opportunity to review various assessments, reports, tests, and analysis completed by Shell. This included more recent environmental studies and data collected. Staff also had the opportunity to discuss the results and the remedial action plan with Shell representatives. Through this effort, staff has been able to obtain a better understanding of the environmental issues and the remediation efforts to be conducted by Shell. This has also allowed staff to conclude that it is possible to modify the conditions for the acceptance of the subject property and that it is recommending that the Board approve the modified conditions as presented in this Report.

Based on staff's recommendations, the Board, through Board Report No. 13-169, approved that the acquisition of the subject property would be dependent on the following conditions:

- (1) Prior to purchase, City would enter into an agreement with Shell, pursuant to which Shell will remediate site contamination caused by prior use of the site as a filling station, and agree to indemnify the City for all future liability caused by such prior use, Shell's site cleanup must be to residential standards;
- (2) Prior to purchase and in cooperation with Shell, obtain either a partial closure letter or "comfort" letter for the site from the LARWQC in which the LARWQC certifies that the site is ready for reuse as a public park;

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- (3) RAP will work with GSD to obtain full "Bonafide" Prospective Purchaser (BFPP) status by performing an All Appropriate Inquiry Phase I Environmental Assessment less than 180 days prior to the date of acquisition and any other required actions; and
- (4) Ensure that the agreement between the City and Shell requires Shell to take all steps necessary, whether before or after the City acquires the site, to obtain case closure with the LARWQC.

But as stated above, due to staff's better understanding of the conditions and remediation efforts, staff has concluded that there are significant and legitimate basis to recommend some modification(s) to the acquisition conditions:

- (1) Environmental Indemnification and Clean-up Agreement:

At this time, the City Attorney is working with the legal counsel for Shell on the preparation of an environmental indemnification and clean-up agreement that will satisfy the conditions set forth by the Board through Board Report No. 13-169. The remediation action plan presented by Shell satisfies all the requirements established by the LARWQC to clean the site to industrial standards which is contrary to staff's initial recommendation to require that the site be cleaned to residential standards. After reviewing the results and recommendations of the most recent Environmental Phase II Site Assessment, staff concurs with the finding by LARWQC that there is negligible risk to adults or children who would potentially use the property if it were developed into a park. It is staff's opinion that the clean-up work currently in the remedial action plan will remove most, if not all, of the onsite identified environmental hazards. Based on this information, the requirement to clean the site to residential standards will be met through the approved and implemented remedial action plan.

Therefore, it is recommended that the Board still require the execution of the Environmental Indemnification and Clean-up Agreement but not require that the site be remediated to "residential standards". The execution of this agreement must still be executed before the close of escrow.

- (2) Due to the nature of the remediation work needed to be done and the extensive monitoring period required by the remedial action plan it is impractical to expect that a closure letter from LARWQC will be available immediately. Per the plan, after the completion of the clean-up work, monitoring must be done for a period not less than one (1) year. It is unlikely that the current owner will wait another year to sell his property. He has already been waiting for the past five (5) years for the City to move forward. It should be noted that the owner had entered into escrow to sell the

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property to a prospective buyer. He has since rescinded that process when he was informed that the City has agreed to closing escrow by the end of October. Subject to the Board's approval. It is staff's opinion that the remediation work to be done would be more than sufficient to clean up the site to a satisfactory level.

Therefore, it is recommended that Board approve final acquisition of the subject property without the need to obtain a final closure letter.

- (3) Staff will pursue to obtain full BFPP status by performing an all appropriate Inquiry Phase I Environmental Assessment less than 180 days prior to the of acquisition and any other required action to provide additional protection to the City.
- (4) Staff will continue to pursue to ensure that the agreement between the City and Shell requires Shell to take all steps necessary, whether before or after the City acquires the site, to obtain case closure with LARWQC as it is in the City's best interest to have this agreement to fall back on.

### Funding Sources

There is sufficient funding available for the acquisition of the parcel identified by APN 7748-009-029. GSD has indicated that as a part of its professional expertise the estimated acquisition cost for the parcel is \$800,000.00. There is an additional cost of \$4,346.00 for closing cost fees which will be needed to complete the acquisition. There are also costs associated with the appraisals and updated environmental site assessments which are considered due diligence costs.

Funding for the acquisition will come from \$800,000.00 in identified AB1290 funds that were previously under CRA control and transferred by City Council to GSD and an additional \$50,000.00 in Quimby Fees that are to be reallocated to this project upon approval of this Report.

The \$50,000.00 in Quimby Fees will be reallocated from the Park Expansion and Development (PRJ20063) project at Welcome Park, which was approved on May 5, 2010, per Board Report No. 10-105. It will be allocated to the Exit Park Acquisition (PRJ20780) project for pre-acquisition and acquisition related expenses, including remediation and site preparation expenses.

These Quimby Fees were collected within one (1) mile of the project site, which is the standard distance for the allocation of the Quimby Fees for neighborhood recreational facilities.

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### Purchase and Sale Agreement:

The City Attorney will prepare a Purchase and Sale Agreement (PSA) that will address the acquisition of the property with APN 7748-009-029. The PSA will address the approved purchase price for the parcel to be acquired and the obligations of each party involved. The PSA will indicate that City will only be responsible for acquisition costs and its share of the closing costs.

### Environmental Indemnification and Clean-up Agreement:

The City Attorney has prepared a draft Environmental Indemnification and Clean-up Agreement that addresses the obligations of Shell to clean up the site according to the provisions of the remedial action plan that has been approved by LARWQC. It will also include provisions that indemnifies the City for all future liability caused by Shell's prior use of the property as a service station.

### Environmental Impact:

Several Environmental Phase I and II Site Assessments have been performed for the project site over the years. As already stated, ground water and soil contamination related to the operation of Shell service station has been identified on the property. A remedial action plan submitted by Shell has been approved by the LARWQC. A recent site assessment by LARWQC has indicated that there is negligible risk to adults or children should the City decide to develop a park on the property.

Staff has determined that the subject project consists of the acquisition of property with the intent to preserve open space for park purposes, and the construction of new small structures (i.e. play equipment, benches, and tables). The project would otherwise not involve any unusual circumstances, sensitive environments, scenic or historic resources that would result in significant and/or cumulative environmental impacts. Therefore, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Article III, Section 3(6) of City CEQA Guidelines, and Section 15325(f) of the State CEQA Guidelines. A Notice of Exemption will be filed for the acquisition and development of this parcel.

In addition to the Office of Council District 15, the Assistant General Manager of Planning, Construction and Maintenance Branch and the Superintendent for the Pacific Region have been consulted and concur with staff's recommendations.

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FISCAL IMPACT STATEMENT:

As indicated in the Summary of this Report, the funding for the acquisition of the subject property will come from AB1290 and Quimby. Total estimated costs, excluding due diligence requirements, is \$804,346.00. A design for the proposed park has not been determined and will be presented to the Board for approval at a later time. Once the project is completed, operational maintenance costs will be determined. Upon completion, a request for funding will be submitted in future Department annual budget requests.

This Report was prepared by Cid Macaraeg, Sr. Management Analyst II in Real Estate and Asset Management Division, Planning, Construction and Maintenance Branch.