

REPORT OF GENERAL MANAGER

NO. 05-218

DATE August 9, 2005

C.D. 6, 9, 13


BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PROPOSED MASTER ACCOUNT AGREEMENT STATING THE TERMS AND CONDITIONS OF THE CITY'S USE OF THE \$4,000,000 BEQUEST FROM THE ANNA H. BING LIVING TRUST FOR THE ACQUISITION, DEVELOPMENT, AND MAINTENANCE OF THREE POCKET PARK PLAYGROUNDS IN UNDERSERVED AREAS LOCATED AT 1644-48 BEVERLY BOULEVARD, 5207 S. BROADWAY, AND 15262 W. MARSON STREET - ADOPTION OF NEGATIVE DECLARATIONS FOR THE ACQUISITION AND DEVELOPMENT OF THE PROPERTIES - PROPOSED GROUND LEASES BETWEEN THE CITY AND LOS ANGELES NEIGHBORHOOD LAND TRUST (LANLT) FOR THE PROVISION OF CONSTRUCTION OF THE PLAYGROUND IMPROVEMENTS AND MAINTENANCE AT THE THREE (3) POCKET PARKS - GROUND SUBLEASES BETWEEN THE LANLT AND THE CITY FOR THE PROVISION OF CONSTRUCTION OF THE IMPROVEMENTS AND MAINTENANCE AT THE THREE POCKET PARKS - PROPOSED TRANSFER OF JURISDICTION OF SURPLUS CITY PROPERTY (15262 W. MARSON STREET) TO THE DEPARTMENT FOR POCKET PARK DEVELOPMENT - PROPOSED MAINTENANCE AND PROGRAMMING AGREEMENT BETWEEN THE CITY AND LANLT

J. Combs _____
H. Fujita _____
S. Huntley _____
B. Jensen _____

J. Kolb _____
F. Mok _____
K. Regan _____
*M. Shull _____

Carly M.S.


General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATION:

That the Board:

1. Review, consider, and adopt the Initial Study (IS) and Mitigated Negative Declaration (MND) for the 1644-48 Beverly Boulevard Pocket Park, finding that on the basis of the whole record, including the IS/MND and any comments received, there is no substantial evidence that the project will have a significant effect on the environment, and that all potentially significant environmental effects of the project have been properly disclosed and

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- evaluated in the IS/MND in compliance with the California Environmental Quality Act (CEQA) and the State and City CEQA Guidelines and reflects the Board's independent judgment and analysis;
2. Review, consider and adopt the Initial Study (IS) and Mitigated Negative Declaration (MND) for the 5207 S. Broadway Pocket Park, finding that on the basis of the whole record, including the IS/MND and any comments received, there is no substantial evidence that the project will have a significant effect on the environment, and that all potentially significant environmental effects of the project have been properly disclosed and evaluated in the IS/MND in compliance with the California Environmental Quality Act (CEQA) and the State and City CEQA Guidelines and reflects the Board's independent judgment and analysis;
 3. Review, consider and adopt the Initial Study (IS) and Mitigated Negative Declaration (MND) for the 15262 W. Marson Street Pocket Park, finding that on the basis of the whole record, including the IS/MND and any comments received, there is no substantial evidence that the project will have a significant effect on the environment, and that all potentially significant environmental effects of the project have been properly disclosed and evaluated in the IS/MND in compliance with the California Environmental Quality Act (CEQA) and the State and City CEQA Guidelines and reflects the Board's independent judgment and analysis;
 4. Approve the Master Account Agreement (MAA), substantially in the form on file in the Board Office, specifying the terms and conditions of the City's use of a \$4,000,000 bequest to the City from the Anna H. Bing Living Trust (Bing Trust), for the acquisition of real property, development of three (3) pocket parks, and performance of related future maintenance;
 5. Approve Ground Leases, substantially in the form on file in the Board Office, between the City and the Los Angeles Neighborhood Land Trust (LANLT) for the provision of construction of improvements and maintenance at the three (3) pocket parks located at 5207 S. Broadway, 1644-48 Beverly Boulevard, and 15262 W. Marson Street;
 6. Approve Ground Subleases, substantially in the form on file in the Board Office, between the LANLT and City for the provision of construction of improvements and maintenance at the three (3) pocket parks located at 5207 S. Broadway, 1644-48 Beverly Boulevard, and 15262 W. Marson Street;

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7. Approve the Maintenance and Programming Agreement, substantially in the form on file in the Board Office, between the City and LANLT for the provision of Maintenance and Programming at the three (3) pocket parks located at 5207 S. Broadway, 1644-48 Beverly Boulevard, and 15262 Marson Street;
8. Request Council to direct the Department of General Services to transfer the jurisdiction of the property at 15262 W. Marson Street from the Department of General Services to the Department of Recreation and Parks for the development of a pocket park;
9. Direct the Board Secretary to concurrently transmit forthwith a copy of the MAA, Ground Leases, and Ground Subleases to the Office of the Mayor per Executive Directive No. 16 and to the City Attorney for review as to form, requesting an expedited review due to the need for City Council consideration on August 16, 2005, to meet a condition required by the Bing Trust for the MAA to be executed by August 24, 2005; and, request an expedited transmittal of the MAA, Ground Leases, and Ground Subleases to City Council in time for consideration of the items and related actions to be placed on the Council agenda of August 16, 2005;
10. Authorize the Board President and Secretary to execute the MAA, upon the necessary approvals being obtained;
11. Authorize the Board President and Secretary to execute the respective Ground Leases, and Ground Subleases upon the necessary approvals being obtained, and the acquisition by purchase or transfer of jurisdiction of each of the three properties;
12. Authorize the Board President and Secretary, to execute all other documents, including deeds, necessary to carry out the purposes and intent of this Board action; and
13. Direct Staff to file a Notice of Determination for each of the MNDs with the Los Angeles County Clerk within five (5) days of adoption by the City Council.

SUMMARY:

On May 12, 2005, the Board of Recreation and Park Commissioners (Board) approved (Board Report No. 05-122) an MOU outlining the terms and conditions upon which a bequest of \$4,000,000 from the Bing Trust to the City of Los Angeles could be accepted for the acquisition and development of three (3) pocket parks located in densely populated and park poor areas within the City of Los Angeles. The three proposed park sites selected by the Trustees are listed below:

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- A) Marson Street Project (unofficial name)
15262 W. Marson Street, Panorama City (APN 2209-030-901) CD-6
Size of Property: 0.20 Acres

- B) Broadway Project (unofficial name)
5207 S. Broadway, South Los Angeles (APN 5110-028-002) CD-9
Size of Property: 0.15 Acres

- C) Beverly Project (unofficial name)
1644-48 Beverly Boulevard, Filipino Town (APN 5153-012-020, 021) CD-13
Size of Property: 0.32 Acres

The entire cost of acquiring all three properties (approximately \$1,320,000) will be funded by the Bing Trust donation. Remaining funds will be used for the development of park improvements consisting of universally accessible play equipment, picnic areas, landscaping, security lighting, and fencing.

Memorandum of Understanding

Pursuant to the provisions of the Bing Trust bequest, the City and Bing Trustees entered into a Memorandum of Understanding (executed May 26, 2005) specifying the terms and conditions on which the City could acquire, develop, and maintain the three (3) projects selected by the Trustees for funding. The MOU sets forth the proposed rights, responsibilities, and obligations of the City and the Bing Trust in connection with the bequest and the steps to be taken to enter into final, binding documentation and disbursement of the bequest. Pursuant to the MOU, the City would agree to acquire and use the three (3) selected properties perpetually and exclusively as public parks and playgrounds. Should the City fail to acquire or develop any of the three (3) park properties, or comply with any provision of the MOU for a particular property, the amount allocated to the property would be released from escrow to the Bing Fund and the City would not receive any further funding for that particular property.

Master Account Agreement

The MOU required that within ninety (90) days of its execution, the City and Bing Trust agree upon and execute the MAA, previously referred to in the MOU as the "escrow instructions," pursuant to which the Bing Trust will deposit the bequest funds (\$4,000,000) into a mutually acceptable interest bearing bank account, from which the City will be given access to the funds for purposes of approved expense reimbursement(s) and payment of approved expenses for the acquisition, design, bid and award, and construction of the three (3) pocket parks. Funding disbursements shall be subject to the approval of the Bing Trust, as provided in the MAA.

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The MAA specifies in greater detail the matters agreed to in the MOU and is intended to supercede it. The key provisions of the MAA are highlighted below.

Ground Lease And Ground Sublease

The MOU also required that prior to the disbursement of any funds from the Escrow Account, the City and Bing Trust must agree upon the form of a park ground lease and park ground sublease specifying the terms and conditions for the future maintenance and operation of the three (3) park sites. The MAA contains as Exhibits C and D, a form of Ground Lease (Lease) and Ground Sublease (Sublease) currently being presented to the Board for consideration.

Pursuant to the proposed Lease, the City will lease each of the three park sites to the LANLT, a California non-profit corporation, for a term of ninety-nine (99) years, as permitted by California Government Code Section 37396. The LANLT will then sublease each property back to the City under the proposed Sublease for a term of ninety-nine (99) years. The rent due from the City under the Subleases shall be the completion of park improvements and performance of the maintenance requirements in the event the Lessee (LANLT) fails to provide the maintenance as required by the Lease. The Lease and Sublease require that the three (3) parks be constructed and maintained in a "first-class" condition, comparable to Hope Grand Park, Maguire Gardens, and Robert Burns Park, in compliance with the maintenance standards attached to the MOU. If the Lessee and Sublessee fail to provide the required maintenance, a third party beneficiary (the California Community Foundation) may intervene to require the City to do so. The California Community Foundation may also be assigned the Lease(s) in the event LANLT becomes unable to fulfill its role as Lessee. The three (3) parks will be closed every day between dusk and dawn.

The proposed MAA, Leases, and Subleases were negotiated with the Bing Trust, LANLT, and the California Community Foundation, and are presented today for the Board's review and consideration. The provisions contained therein have been reviewed by staff and the City Attorney, and are recommended for approval. In order to remain in compliance with the provisions of the Bing Trust, the proposed MAA, must be executed on or before August 24, 2005.

Park Maintenance And Programming

Pursuant to the Leases and Subleases, the City will be required to operate and maintain the three (3) pocket parks on a continuing basis and in a first-class condition. To ensure compliance with Bing Trust requirements and to keep costs to the City at a minimum, the City will enter into a Maintenance and Programming Agreement with the LANLT for the continued maintenance and programming of activities at the three (3) pocket parks. Pursuant to the Lease, LANLT may subcontract for some or all of the required maintenance. The LANLT has committed to entering into a maintenance contract with the LACC for the long term maintenance of the three parks. Under the

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proposed arrangements, LANLT shall be responsible for contracting with LACC to provide the high level of maintenance specified in the Leases and Subleases, at no cost to the City. In addition, the LANLT has agreed to raise funds for an endowment that could be used to ensure the future maintenance of the three parks.

The maintenance standards in the Leases and subleases are the same as previously approved in the MOU. Therefore, the Department's Principal Maintenance Supervisor II from each of the Operations Regions in which the new pocket parks will be located has reviewed and commented upon the maintenance standards specified in the Leases and Subleases, and have found the standards to be reasonable.

In addition to site maintenance, the LANLT has agreed to develop and coordinate recreational programming through neighborhood stakeholders and community groups. Recreational opportunities will be provided to the surrounding community through educational classes, community events, and recreation programs. The LANLT has a positive history of successfully partnering with community groups at other park sites, and is confident of the potential to do so at the three (3) pocket parks.

Allocation And Disbursement Of Funds

Upon execution of the proposed MAA, the Bing Trust will deposit \$4,000,000.00 into a mutually acceptable interest bearing bank account from which approved project expenses may be withdrawn. The funds will be allocated in the following amounts and according to the following structure:

| <u>PROJECT</u> | <u>PRE-ACQUIS.</u> | <u>ACQUISITION</u> | <u>DESIGN</u> | <u>CONST.</u> | <u>TOTAL</u> |
|----------------|--------------------|--------------------|---------------|---------------|--------------|
| BROADWAY | \$20,000 | \$380,000 | \$63,000 | \$537,000 | \$1,000,000 |
| BEVERLY | \$50,000 | \$950,000 | \$132,000 | \$1,108,000 | \$2,240,000 |
| MARSON | \$0 | \$0 | \$80,000 | \$680,000 | \$760,000 |
| TOTAL | \$70,000 | \$1,330,000 | \$275,000 | \$2,325,000 | \$4,000,000 |

* Interest earned on the deposit will be allocated to the three (3) properties.

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The Department will be authorized to draw from the MAA for reimbursements and payments of approved project expenses (acquisition, design, bid and award, construction, etc.). Although not anticipated, the City shall be responsible for any excess costs necessary to complete the projects, should any final project cost exceed the allocated amount(s). If the cost for acquiring and developing any individual project is less than the allocated amount, the City may apply the savings to a cost overrun on one of the other projects or place the project savings in a specified fund for repairing, replacing or providing additional improvements at the three (3) pocket parks.

Project Deadlines

The three (3) park properties must be acquired and designed by February 26, 2006. The bid and award process for the construction of the improvements shall be completed by July 27, 2006 and construction of the improvements shall be completed by July 27, 2007. To the extent that the acquisition and development costs of the three (3) sites exceed \$4,000,000, plus the interest earned on the deposit, the City shall be responsible for the cost of completing the projects.

Property Acquisitions

The Broadway and Beverly Boulevard properties are currently each owned by private parties. Both parties have demonstrated a willingness to sell their respective properties to the City for future park development. The Department of General Services Asset Management Division (DGS) has contacted each of the property owners and is currently in negotiations to determine a mutually acceptable sale price. Preliminary approval to proceed with negotiations was granted by the Board on May 12, 2005 (Board Report No. 05-122). Upon the conclusion of negotiations, the terms of each proposed acquisition will be presented to the Board.

In order to facilitate negotiations in the purchase of these two properties and to avoid or minimize any environmental liabilities associated with the previous uses, a Phase I Environmental Site Assessment was conducted for each property. A site reconnaissance at 5207 Broadway was conducted on May 4, 2005. The subsequent assessment concluded that there was no evidence of recognized environmental conditions in connection with the subject property, and no additional site assessment research and/or subsurface investigation activities were recommended.

The site reconnaissance at 1644 and 1648 Beverly Boulevard was also conducted on May 4, 2005. However, the site assessment revealed evidence of recognized environmental conditions in connection with up to three abandoned oil wells on the property. In addition, the subject property is located within the boundary of the City of Los Angeles Methane Study Zone. Therefore, a Phase II Subsurface Investigation in the form of a geophysical survey (to locate the wells) and soil vapor sampling was recommended for the subject properties. The Phase II investigation, which was conducted on June 29, 2005, did not identify any environmental constraints to development of the

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proposed park; found that any crude oil impacted sediments, should they be encountered during construction, could be managed as non-hazardous petroleum impacted soil. No further site remediation or clean up is anticipated.

Transfer Of Jurisdiction

The Marson Street property is presently owned by the City and is under the jurisdiction of the Department of General Services (DGS). It is recommended that the Board request the City Council to direct the DGS to expedite the processing of a transfer of jurisdiction to the Department for purposes of future park development. The requested transfer has been discussed with the DGS and has been determined by the DGS to be appropriate and acceptable. Because the subject property is City owned surplus property, the parcel can be developed into the proposed park without the Department incurring any associated acquisition cost.

Design And Construction

The Department of Public Works, Bureau of Engineering (BOE) is currently in the preliminary phase of designing the improvements for each of the three (3) park projects and is working with the LANLT in conducting a series of community meetings to ensure community input and acceptance. BOE will also be providing project management services to oversee the construction of the three (3) pocket parks. The Department will follow the normal procedures for the construction contract bid and award process.

California Environmental Quality Act

In accordance with the requirements of the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (MND) was prepared based on an Initial Study (IS) for each of three project properties, which determined that all potentially significant environmental effects of each project would be mitigated to a level less than significant. Mitigation measures for short-term temporary construction impacts have been identified in the MNDs that will either reduce to a level of insignificance or eliminate all potentially significant environment impacts of the project. The three IS/MNDs were circulated to all interested parties and responsible agencies for a 20-day review and comment period from July 14, 2005 through August 3, 2005. No comment letters were received that raised new substantive environmental issues for any of the three project locations. Each of the final MNDs have been provided to the Board for its review and consideration, and Staff recommends their adoption. It was further determined that the project, as proposed at each of the properties, will not individually or cumulatively have an adverse effect on wildlife resources or their habitats as defined by Fish and Game Code 711.2, and that a Diminimis Waiver of Department of Fish and Game CEQA Review Fees can be filed with the Notices of Determination.

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FISCAL IMPACT STATEMENT:

The acquisition and development of the three (3) Bing Trust park sites should not have any financial impact on the Department. The anticipated costs for the acquisition and development of the three (3) sites are being funded through the Bing Trust \$4,000,000 donation to the City. Although none are anticipated, the only potential costs to the City could be to fund any cost overruns associated with the completion of the development portion of the project(s). The future maintenance of the three (3) sites has been pledged by the LANLT and will be provided by the LACC, at no cost to the City.

The recommendations contained in this report are strongly supported by the Superintendents of the Griffith-Metro, Pacific, and Valley Regions, and by Councilmembers Jan Perry of the Ninth Council District, Eric Garcetti of the Thirteenth Council District, and Tony Cardenas of the Sixth Council District, respectively.

This report was prepared by Joel Alvarez, Management Analyst II, of the Department's Real Estate and Asset Management Section, with the assistance of the Office of the City Attorney and Department Region Operations Offices.