

DATE ISSUED: June 8, 2005

REPORT NO. 05-130

ATTENTION: Honorable Mayor and City Council  
Agenda of June 13, 2005

SUBJECT: Authorization for Acquisition of Fox Canyon Park Site

#### SUMMARY

Issue – Should the City Manager authorize the expenditure of funds for the acquisition of a 1.9 acre parcel of land located at the southeast corner of Landis Street and Winona Avenue?

Manager's Recommendation – Authorize the acquisition of the 1.9 acre parcel.

Fiscal Impact – Funds in the amount of \$480,000 are available in CIP 29-5960, Fox Canyon Park, Mid-City Special par Fees Fund #39094.

#### BACKGROUND

This action authorizes the acquisition of a parcel of land located in the Mid-City Community of City Heights Plan Area in the neighborhood of Fox Canyon, east of Euclid Avenue, west of Altadena Drive, and south of University Avenue. The proposed land is adjacent to Auburn Creek and will provide an approximately 1.9 acre passive use park, along with creek enhancements, in accordance with the Chollas Creek Enhancement Program.

Due to the scarcity of undeveloped land, the area is grossly park deficient. The ratio of parkland to population is 0.6 acres per 1,000 residents. This is far below the park standards established by the City of San Diego Park and Recreation Department of 3 acres per 1,000 residents. Furthermore, recreational opportunities are extremely limited. Therefore, this proposed park will provide a highly needed recreational outlet and will contribute to satisfying the population based park acreage requirements set forth in the City of San Diego's Progress Guide and General Plan.

## DISCUSSION

The Park and Recreation Department is working towards designing and permitting Fox Canyon Park by October in order to obtain funding from the state to build the park. To that end, Park and Recreation has developed conceptual plans and prepared technical reports regarding the likely environmental impacts of the proposed park and has submitted those plans and reports to Development Services for review.

The Real Estate Assets Department has negotiated a voluntary sale by seller and acquisition by the City of the park site. An escrow has been opened and will be able to close upon approval of the funding for the acquisition. Immediate funding would be from Fox Canyon Park Fund # 39094, with reimbursement after October by the State grant. State funding cannot be used for property obtained via forced sale via condemnation.

Delays in the acquisition could

- 1) cause the seller to find another buyer and cancel the existing escrow;
- 2) a different owner may not agree to sell, costing a) the City the time and expense of condemnation proceedings as well as b) not being able to be reimbursed for the sales price by the state grant;
- 3) the price of land in San Diego is increasing at a rate of 10% per year. An offer made six months from now would likely have to reflect an approximate \$23,000 increase on the current \$475,000 sales price.

CEQA Guidelines Section 15004 states that: "CEQA compliance should be completed prior to acquisition of a site for a public project". CEQA Guidelines Section 15005 indicates that "should" means that: "Public agencies are advised to follow this guidance in the absence of compelling, countervailing considerations". Items 1-3 above represent such considerations.

Guidelines Section 15004(2) also indicates that agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance; for example, agencies shall not formally make a decision to proceed with the use of a site or otherwise take any action which gives impetus to a planned project in a manner that forecloses alternatives or mitigation measures.

In terms of this action resulting in a significant effect or limiting the choice of alternatives or mitigation measures, this action merely transfers ownership of the property and does not result in any physical change to the environment. In terms of foreclosing mitigation measures or alternatives, this action does not affect the ability of City designers or decision makers to design the park in a certain way or add mitigation measures/conditions to the project to mitigate any impacts.

Moreover, approval of the acquisition does not foreclose the ability of the City to choose a different park alternative by building the park in a different location. If a different site is selected, this site could be sold by the City in its existing condition with sales proceeds going

toward reimbursing the Park and Recreation fund.

In terms of "formally making a decision", CEQA was written with an appreciation for the fact that a city must have a use or purpose in mind to justify the purchase of land. The initial funding source for the acquisition is a Park and Recreation Fund which can likely be used only for park purposes. However, using this fund does not cross the threshold of formally making a decision to use a site, particularly since use of the site cannot occur until certain entitlements are granted in conjunction with CEQA compliance. If the funding source were considered to constitute a formal decision, then no agency would be allowed to take advantage of the "should" language provided in Section 15004.

While a generalized intent of CEQA includes looking at environmental impacts at the earliest point in the planning process, CEQA does include provisions for acquiring property without CEQA compliance. This situation, given the compelling, countervailing considerations, does seem to warrant taking advantage of the provisions in Section 15004 of the CEQA Guidelines. Of course, CEQA compliance would occur prior to any formal decision to proceed with park development.

Respectfully Submitted,

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William T. Griffith  
Real Estate Assets Director

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Approved: Bruce Herring  
Deputy City Manager

#### ATTACHMENTS

- [1. Location Map](#)
- [2. Plat Map](#)

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