

CITY OF OAKLAND
COUNCIL AGENDA REPORT

OFFICE OF THE CITY CLERK
CITY OF OAKLAND

2005 APR 28 PM 12: 12

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: May 10, 2005

RE: **ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO ENTER INTO AND EXECUTE A PURCHASE AND SALE AGREEMENT TO ACQUIRE TWO PARCELS OF LAND CONTAINING 21,905 SF KNOWN AS APN 029-1158-011-03 AND APN 029-1159-006-02 LOCATED ON BUTTERS DRIVE FOR OPEN SPACE FROM THE BUTTERS LAND TRUST IN AN AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) PLUS CLOSING COSTS NOT TO EXCEED EIGHT THOUSAND DOLLARS (\$8,000) FROM MEASURE DD FUNDS**

SUMMARY

An Ordinance has been prepared authorizing the City Administrator, or her designee, to enter into a Purchase and Sale Agreement to acquire two parcels of land containing 21,905 SF known as APN 029-1158-011-03 and APN 029-1159-006-02 located on Butters Drive from Butters Land Trust ("BLT"). The \$150,000 purchase price has been determined to be the fair market value of the parcels by an appraisal commissioned by CEDA's Real Estate Division. Closing costs for this transaction will not exceed \$8,000. The parcels are to be held by the City of Oakland as permanently protected open space.

Staff recommends the adoption of an ordinance authorizing the purchase of these properties via a Purchase and Sale Agreement with BLT. This purchase is consistent with the following 2003-05 Goals and Objectives of City Council and Mayor: #2 (Develop a Sustainable City), #3 (Improve Oakland Neighborhoods), #6 (Maintain and Enhance Oakland's Physical Assets), and #7 (Inspire Creativity and Civic Engagement).

FISCAL IMPACT

In the July 2004 City Council Resolution 78750, C.M.S., Council approved, as set forth in that Council Agenda Report, the dedication of \$350,000 of Measure DD funds for the acquisition of parcels in Butters Canyon on Peralta Creek at risk of immediate development and ready for purchase. Up to \$158,000 from the Watershed Improvement Program Watershed Acquisition Project (Fund 5320, Org. 92280, Project Number C244910) will be dedicated to the

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acquisition of these two priority properties. The remaining amount dedicated to property acquisitions at Butters Canyon will be \$192,000.

BLT has agreed to perform ongoing trash cleanup and vegetation control on parcels that are purchased by the City, freeing the City from costly maintenance activities. The parcels will be removed from the real property tax rolls.

BACKGROUND

In November 2002, the voters of the City of Oakland passed Measure DD, the Oakland Trust for Clean Water and Safe Parks. Measure DD provides a total of \$4.5 million for Watershed Acquisitions. The Watershed Improvement Program is administering these funds for the purpose of acquiring creekside properties of high aesthetic, habitat and/or water quality protection value. City Council Resolution 77965, C.M.S., dated July 15th 2003, authorized the appropriation of funds for Bond Series A. City Council Resolution 78750, C.M.S., dated July 20th 2004, authorized expenditure of up to \$350,000 of Measure DD funds for the purchase of properties in Butters Canyon. The properties were appraised in May 2004 and are ready for purchase from Butters Land Trust.

Butters Land Trust purchased the two properties in 2004 for a total amount of \$101,500. This amount includes the purchase of the parcel known as APN 029-1158-011-03 for the market value of \$75,000 and the opportunity purchase of the parcel known as APN 029-1159-006-02 for the bargain-sale price of \$26,500 for a total of \$101,500. The City had both parcels appraised and the appraised fair market value of the parcels was \$75,000 each. BLT will commit the entire purchase price of \$150,000, including the \$48,500 difference between their purchase and sale price, to the purchase and conservation of future acquisitions in Butters Canyon.

KEY ISSUES AND IMPACTS

The acquisition of these two parcels is an opportunity for the City of Oakland to meet the Measure DD Watershed Acquisitions objectives to protect intact riparian habitats. These properties are located within a contiguous one-half linear mile of undeveloped lands. Development of the properties would have impacts on water quality, habitat and the quality of life to visitors and residents of Butters Canyon. Not purchasing these properties would be losing a promising opportunity to fulfill the goals and intent of voter supported Measure DD.

PROJECT DESCRIPTION

The two properties being considered for acquisition are within Butters Canyon along a 0.5 linear mile section of Peralta Creek. This portion of the Canyon is characterized by headwater riparian habitat and is home to a range of wildlife and plant species.

A Purchase and Sale Agreement (“PSA”) would be entered into with Butters Land Trust providing for the conveyance of the property and its dedication as Open Space. The PSA would provide for:

1. The sale of the properties at appraised fair market value (\$150,000) to be paid in cash to Butters Land Trust.
2. The dedication of the properties as Open Space.
3. An agreement that BLT will perform ongoing trash cleanup and vegetation control.

The seller, Butters Land Trust, is a 501(c)(3) non-profit organization located in the City of Oakland.

ENVIRONMENTAL IMPACTS

This action has been found to be categorically exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Class 25, Section 15325, of the CEQA Guidelines (Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions).

SUSTAINABLE OPPORTUNITIES

Economic: Purchase of these parcels by the City contributes to a community group’s efforts to protect open space. The project will establish a scenic resource that provides quality of life benefits for local and regional residents.

Environmental: The project will protect Peralta Creek. Water quality will be improved and intact wildlife habitat will be protected.

Social Equity: The project will protect an open space resource that can be accessed freely by the public. Located on a bike throughway, a preserved Butters Canyon will improve the social connections between the upstream and downstream neighborhoods.

DISABILITY AND SENIOR CITIZEN ACCES

The land will remain in its natural state. No improvements to the property are contemplated.

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RECOMMENDATION AND RATIONALE

Staff recommends the acquisition of two parcels of land containing 21,905 SF known as APN 029-1158-011-03 and APN 029-1159-006-02 located on Butters Drive for an amount not to exceed one hundred fifty thousand dollars (\$150,000) plus closing costs not to exceed eight thousand dollars (\$8,000) from Measure DD funds. This purchase will conserve a riparian corridor and protect habitat and water quality.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council approve the ordinance.

Respectfully submitted,




**DANIEL VANDERPRIEM, Director of
Redevelopment, Economic Development, and
Housing and Community Development**

Reviewed by:
Frank Fanelli
Real Estate Services Division Manager

Prepared by:
Ron Basarich
Real Estate Agent
Real Estate Services Division

Markley Bavinger
Watershed Improvement Program Specialist
Environmental Services Division

APPROVED AND FORWARDED
TO THE FINANCE AND MANAGEMENT COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

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ORDINANCE NO. _____ **2005 CRM SPM 12: 12**

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO ENTER INTO AND EXECUTE A PURCHASE AND SALE AGREEMENT TO ACQUIRE TWO PARCELS OF LAND CONTAINING 21,905 SF KNOWN AS APN 029-1158-011-03 AND APN 029-1159-006-02 LOCATED ON BUTTERS DRIVE FOR OPEN SPACE FROM THE BUTTERS LAND TRUST IN AN AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) PLUS CLOSING COSTS NOT TO EXCEED EIGHT THOUSAND DOLLARS (\$8,000) FROM MEASURE DD FUNDS.

WHEREAS, the Oakland Trust for Clean Water and Safe Parks (Measure DD) was passed in November 2002 with 80% voter approval; and

WHEREAS, Measure DD provides \$4.5 million for Watershed Acquisition; and

WHEREAS, the Measure DD, Series 2003A Bond sale in August 2003 provided \$3 million for Watershed Acquisition which have already been appropriated and allocated by City Council; and

WHEREAS, the Watershed Acquisition implementation plan calls for the expenditure of \$350,000 from Project: C244910, which have already been appropriated and allocated by City Council, to be dedicated to the acquisition of properties in Butters Canyon; and

WHEREAS, Butters Land Trust is the owner of two properties located on Butters Drive (APN 029-1158-011-03 and APN 029-1159-006-02); and

WHEREAS, the necessary property rights have been appraised and an offer to acquire the property rights at their appraised fair market value has been made to the property owner; and

WHEREAS, the property owner has agreed to sell the necessary property rights to the City at their fair market value of \$150,000; and

WHEREAS, the property shall be held by the City of Oakland into perpetuity as Open Space; and

WHEREAS, the funding for the acquisition of the necessary property rights is available in the Watershed Improvement Program Watershed Acquisition Project (Fund 5320, Org. 92280, Project Number C244910).

THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Administrator, or her designee, is authorized to enter into a Purchase and Sale Agreement to purchase a portion of the real property located at Butters Drive from Butters Land Trust for a total amount not to exceed \$150,000 plus closing costs, the legal description of which is set forth in Exhibit "A"; attached hereto and incorporated herein.

SECTION 2. The funding for the acquisition of the necessary property rights is available from the Watershed Improvement Program Watershed Acquisition Project (Fund 5320, Org. 92280, Project Number C244910).

SECTION 3. The Manager of Real Estate Services or such other City Administrator designee, as the City Administrator may determine, is hereby authorized to take all actions as may be required to carry out the intent of the terms of the Purchase and Sale Agreement and this Ordinance.

SECTION 4. The Purchase and Sale Agreement for the purchase of these property rights shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

SECTION 5. This Ordinance shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LA TONDA SIMMONS

Interim City Clerk of the Council Of the City of
Oakland and Interim Clerk

NOTICE AND DIGEST

ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO ENTER INTO AND EXECUTE A PURCHASE AND SALE AGREEMENT TO ACQUIRE TWO PARCELS OF LAND CONTAINING 21,905 SF KNOWN AS APN 029-1158-011-03 AND APN 029-1159-006-02 LOCATED ON BUTTERS DRIVE FOR OPEN SPACE FROM THE BUTTERS LAND TRUST IN AN AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000), PLUS CLOSING COSTS NOT TO EXCEED EIGHT THOUSAND DOLLARS (\$8,000) FROM MEASURE DD FUNDS.