

City Attorney

INTRODUCED BY COUNCIL MEMBER  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 JUN 11 PM 4:07  
**OAKLAND CITY COUNCIL**  
 ORDINANCE No. 12957 C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT WITH CHABOT-DUNSMUIR LP FOR CITY ACQUISITION OF SEVEN PARCELS TOTALING APPROXIMATELY 64 ACRES LOCATED NORTHWEST OF DUNSMUIR RIDGE (THE "PROPERTY"), SUBJECT TO A CONSERVATION EASEMENT IN FAVOR OF THE EAST BAY REGIONAL PARK DISTRICT ("DISTRICT"), FOR ONE MILLION TWENTY-FIVE THOUSAND DOLLARS (\$1,025,000), PLUS ONE HUNDRED THOUSAND DOLLARS (\$100,000) FOR CLOSING COSTS AND NINETY-FIVE THOUSAND DOLLARS (\$95,000) FOR CAPITAL AND OTHER COSTS, FROM MEASURE DD FUNDS, AND TO GRANT THE DISTRICT A RECREATIONAL TRAIL EASEMENT OVER AND ACROSS THE PROPERTY AND OTHER ADJACENT CITY-OWNED LANDS

**WHEREAS**, on November 5, 2002, the voters of the City of Oakland passed Measure DD which authorized the City to sell bonds to fund the restoration and preservation of creeks and acquisition of watersheds in Oakland; and

**WHEREAS**, Measure DD bond proceeds are available under the Watershed Improvement Program's Watershed Acquisition Project to cover the purchase price (\$1,025,000), closing costs (not to exceed \$100,000) and capital costs (not to exceed \$95,000) for the approximately 64 acre parcel (APNs: 048-6165-059-03, 048-6165-075-04, 048-6165-076-01, 048-6166-041-07, 048-6179-011-02, 048-6247-002-10, and 048-6254-001) (the "Property"); and

**WHEREAS**, on December 20, 2005, the Oakland City Council passed Resolution No. 79649 C.M.S. adopting the Prioritized Watershed Preservation and Acquisition Project List ("Project List"), which included and ranked the Property third in terms of priority for acquisition; and

**WHEREAS**, Chabot-Dunsmuir LP, a California limited partnership ("Owner"), owns the Property, consisting of approximately 64 acres of unimproved vacant land located to the northwest of the Dunsmuir House and northwest of Dunsmuir Ridge Open Space; and

**WHEREAS**, the Owner has agreed to sell the Property for a total cash purchase price of \$2,925,000, which is less than the appraised fair market value of \$3,600,000, as of July 16, 2008; and

**WHEREAS**, the Owner has agreed to sell a conservation easement to the District for \$1,900,000 (as part of the \$2,925,000 purchase price) conditioned upon the District's payment of its share of the closing costs and the City's purchase of the Property, subject to the conservation easement; and

**WHEREAS**, the Owner has also agreed to sell the Property, subject to the District's conservation easement, to the City for the purchase price of \$1,025,000 (as part of the \$2,925,000 purchase price) plus the City's payment of the City's share of closing costs, not to exceed \$100,000; and

**WHEREAS**, the capital costs associated with the City's purchase of the Property will not exceed \$95,000, for the installation of gates and bollards at main access points, survey work to identify boundaries, one-time clean up expenses, and the removal of vegetation and debris; and

**WHEREAS**, the District's purchase of the conservation easement from the Owner is conditioned on the City's grant of a recreational trail easement over and across the Property plus adjacent City-owned lands (Dunsmuir Ridge Open Space), extending about 1.6 miles beginning at the City-owned land and extending to the District's Anthony Chabot Regional Park near the Goldenrod Trail; and

**WHEREAS**, the City's grant of the recreational trail easement will be conditioned on the District's agreement to pay for the installation and maintenance of the new easement trail, and the indemnification of the City relating to the use and maintenance of the trail easement; and

**WHEREAS**, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore

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

**Section 1.** The City Administrator, or his designee, is authorized to enter into a Purchase and Sale Agreement and to grant a recreational trail easement to the District, consistent with this ordinance.

**Section 2.** The funding for acquisition of the Property plus the payment for the closing and capital costs is available from Measure DD 2003A Capital Improvement Fund (5320) Watershed Acquisitions Creeks and Waterways Project (C244910).

**Section 3.** The Manager of Real Estate Services or other City Administrator Designee is authorized to take all necessary actions to complete the acquisition of the Property from the Owner and to grant the recreational trail easement to the District consistent with the intent of this Ordinance.

**Section 4.** The purchase and sale Agreement, the grant of the recreational trail easement, and all other documents necessary to effectuate the acquisition of the Property 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.** The City Council has independently reviewed and considered this environmental determination and the Council finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15316 (Transfer of ownership of land in order to create parks) and Section 15325 (Transfer of ownership of interest in land to preserve existing natural conditions and historical resources) of the CEQA guidelines, and the Council directs the City Administrator to file a Notice of Exemption and an Environmental Declaration (under California Fish and Game Code Section 711.4) with the County of Alameda.

**Section 6.** This Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 21 2009

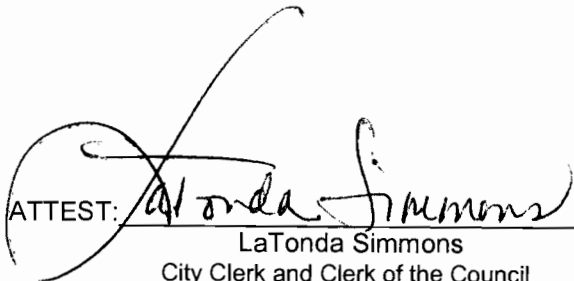
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date: **JUL 7 2009**

DATE OF ATTESTATION: 7/22/09

## NOTICE AND DIGEST

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT WITH CHABOT-DUNSMUIR LP FOR CITY ACQUISITION OF SEVEN PARCELS TOTALING APPROXIMATELY 64 ACRES LOCATED NORTHWEST OF DUNSMUIR RIDGE (THE "PROPERTY"), SUBJECT TO A CONSERVATION EASEMENT IN FAVOR OF THE EAST BAY REGIONAL PARK DISTRICT ("DISTRICT"), FOR ONE MILLION TWENTY-FIVE THOUSAND DOLLARS (\$1,025,000), PLUS ONE HUNDRED THOUSAND DOLLARS (\$100,000) FOR CLOSING COSTS AND NINETY- FIVE THOUSAND DOLLARS (\$95,000) FOR CAPITAL AND OTHER COSTS, FROM MEASURE DD FUNDS, AND TO GRANT THE DISTRICT A RECREATIONAL TRAIL EASEMENT OVER AND ACROSS THE PROPERTY AND OTHER ADJACENT CITY-OWNED LANDS**

This Ordinance authorizes City acquisition of approximately 64 acres located northwest of Dunsmuir Ridge , subject to a conservation easement in favour of the East Bay Regional Park District, and grant of a recreational trail easement to the District across the Property and other adjacent City-owned lands.