

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2007 AUG 30 PM 2:06

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Community and Economic Development Agency
DATE: September 11, 2007

RE: **An Ordinance Authorizing the City Administrator to (1) Negotiate and Execute a Real Property Exchange Agreement With the East Bay Regional Park District ("EBRPD") For the Exchange of City of Oakland Owned Lands Located Near Roberts Regional Recreation Area, Redwood Regional Park, Temescal Regional Area, and the Claremont Canyon Regional Preserve, for EBRPD Owned Lands Located in Shepherd Canyon, and (2) Grant a West Ridge Trail Easement and a Redwood Bowl Parking Lot Easement to EBRPD in Consideration of Its Payment of the City's Share (\$15,000) of the Cost to Prepare the Legal Descriptions of the Properties to be Exchanged**

SUMMARY

An Ordinance has been prepared authorizing the City Administrator to (1) negotiate and execute a Real property exchange agreement with the East Bay Regional Park District ("EBRPD") for the exchange of City of Oakland owned lands located near Roberts Regional Recreation Area, Redwood Regional Park, Temescal Regional Area, and the Claremont Canyon Regional Preserve for EBRPD owned lands located in Shepherd Canyon, and (2) grant a West Ridge Trail Easement and a Redwood Bowl Parking Lot Easement to EBRPD in consideration of its payment of the City's share of the cost (\$15,000) to prepare the legal description of the properties involved in this exchange.

The City has lands consisting of about 5.39 acres; approximately 234,702 square feet described in the attached Exhibit A entitled "Proposed Land Transfer from the City of Oakland to the East Bay Regional Park District." While the City owns the lands, the EBRPD now maintains the lands described in Exhibit A.

EBRPD owns lands consisting of about 17.95 acres, approximately 781,281 square feet described in the attached Exhibit B entitled "Proposed Land Transfer from the East Bay Regional Park District to the City of Oakland." Except for the Scout Road parcel consisting of about 5.37 acres, approximately 233,802 square feet of land, the City of Oakland ("City") now maintains the remaining lands.

The City also owns lands consisting of about 1.07 acres, approximately 47,000 square feet described in the attached Exhibit C entitled "Land Subject to Proposed Easements to the East

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Bay Regional Park District.” While the City owns the lands described in Exhibit C, the District now maintains the trail easement and regularly sweeps the Redwood Bowl Parking Lot described in Exhibit C.

Staff recommends the passage and adoption of this Ordinance in order to cause the following:

1. Exchange of the City’s 5.39 acres described in Exhibit A for the 17.95 acres of EBRPD lands described in Exhibit B.
2. Grant of the trail and parking lot easements described in Exhibit C subject to the EBRPD’s preparation of the legal descriptions of the lands involved along with EBRPD obligation to maintain the easements and indemnify and hold the City harmless from any third party claim relating to the use of the easements.

FISCAL IMPACT

The fiscal impact to the City includes:

1. Exchange of lands. Except for the Scout Road parcel, the City currently maintains all of the other lands described in Exhibit B. Additional funds required to maintain the 5.37 acre Scout Road Parcel are available under the Oakland Wildfire Assessment District. Since the EBRPD already maintains the rest of lands described in Exhibit A, the City transfer of these lands to EBRPD will not result in any cost savings to the City.
2. Transfer of easements. The grant of the trail easement to the District will not result in any cost savings to the City because EBRPD already maintains the trail easement. The grant of the parking lot easement will save the City about \$32,000 per year. Except for EBRPD providing regular sweeping services, the City maintains the parking lot. According to the Public Works Agency, the transfer of the easement of the parking lot will save the City about \$32,000 per year which includes resurfacing and re-striping as needed, annual weed control, daily security patrol, waste and litter removal twice per week, and daily locking in the evening and unlocking in the morning of the gates. The savings generated by this transfer can be used to provide improved maintenance of the Shepherd Canyon Trail.
3. Costs of preparing legal descriptions. EBRPD will waive the City’s share of the costs of preparing the legal descriptions (\$15,000) in exchange for the City’s grant of the easements to EBRPD.

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BACKGROUND

In order for the District to grant an encroachment permit to the City for the purpose of installing a sanitary relief sewer pipeline through the Oakland Regional Trail (also known as Shepherd Canyon Trail), the City and District entered into a Memorandum of Understanding ("MOU") dated March 27, 2000. The MOU provides for the following:

1. Real Property Exchange Agreement. EBRPD and the City of Oakland agreed to enter into a Real Property Exchange Agreement to complete the exchange of the City of Oakland owned lands described in Exhibit A (5.39 acres) for the District owned land described in Exhibit B (17.95 acres).
2. Cost Sharing Agreement. EBRPD and the City of Oakland agreed to share the cost of preparing the legal descriptions of the exchange properties but the City's share shall not exceed \$15,000.
3. Grant of Encroachment Permit. EBRPD agreed to grant an encroachment permit to the City of Oakland for installing the sanitary relief sewer pipeline through the Oakland Regional Trail effective March 27, 2000 to December 31, 2001.

In accordance with the MOU, the City installed the sanitary relief sewer pipeline and must now satisfy the terms and conditions of the MOU with EBRPD.

EBRPD now wishes to complete the land exchange under the MOU. In addition, the District wishes to amend the MOU and obtain easements from the City. In consideration for the City's grant of the easement, EBRPD agrees to waive its right to collect the City's share of the cost (not to exceed \$15,000) to prepare the legal description of the properties involved in the exchange. The City's grant of the trail easement and parking lot easement will be subject to the District's obligations to maintain the easements at no cost to the City and to indemnify and hold the City harmless from any third party claims relating to the easements.

KEY ISSUES AND IMPACTS

The key issues include the following:

1. Whether the City should exchange the City owned lands for the District owned lands.
2. Whether the City should transfer the easements for the trail and the parking lot subject to the District's obligations to maintain the easements and to indemnify the City against any

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third party claims relating to the easements and the District's preparation of the legal descriptions?

Staff recommends that the City should complete the exchange for the following reasons:

1. *Merger of ownership and management responsibilities.* Except for the Scout Road parcel, the City maintains the District owned lands described in Exhibit B. If the exchange is completed, the City will obtain fee simple title to the EBRPD owned lands (17.95 acres) so that the management responsibility merges with the ownership interest. Similarly, the EBRPD will obtain fee simple title to the City owned lands (5.39 acres) that they currently manage, so that the management responsibility merges with the ownership interest.
2. *Minimizing Claims against the City.* The City owned lands to be exchanged are all located adjacent to EBRPD owned lands open to the public. If the exchange is completed, the City owned lands would become part of the District's park system. If the City is the record owner of these lands, the City may be a named defendant in any lawsuit involving any accidents occurring on these lands. If the City-owned land is transferred to the District, the City will eliminate such third party claims based solely on ownership of the land.
3. *Net additional lands to the City.* In exchange of the EBRPD land (17.95 acres) for the City's land of about 5.39 acres, the net gain in land area to the City is about 12.56 acres of land. Except for the parcel on Scout Road, the City already maintains the rest of the land area along the Shepherd Canyon Trail. The available funds from Oakland Wildfire Assessment District will cover the cost to maintain the Scout Road Parcel. At no additional maintenance cost to the City, the City will own and control an additional 12.56 acres of open space land in Shepherd Canyon.

The City should also transfer the trail easement and the parking lot easement to EBRPD as full payment of the City share of the cost to prepare the legal descriptions for the following reasons:

1. *Trail Easement.* EBRPD is already maintaining West Ridge Trail. The grant of the trail easement will include an agreement obligating the District to continue its maintenance of the trails and to indemnify and hold the City harmless with respect to third party claims relating to the easement.
2. *Parking Lot Easement.* Except for EBRPD's regular sweeping, the City maintains the Redwood Bowl parking lot. The granting of the easement will shift the other costs of maintaining the parking lot to the District, which would save the City about \$32,000 in maintenance cost per year. The granting of the easement will also obligate EBRPD to

indemnify and hold the City harmless from any third party claims relating to this easement.

PROJECT DESCRIPTION

No new construction or improvements will be made to the lands involved in the exchange and the granting of the easements. The exchange will merge the record ownership of the lands to the party now maintaining such lands. The grant of the trail easement and the parking lot easement will not change the use of the land subject to the easements.

SUSTAINABLE OPPORTUNITIES

Economic: The lands involved in the exchange and the lands subject to the easements will continue to remain open space.

Environmental: The properties exchange is exempt from the California Environmental Quality Act (CEQA) and the CEQA Guidelines (Existing Facilities) because after the exchange is completed, the land use will continue to remain open space, and no improvements will be made to the properties exchanged or those subject to the easements.

Social Equity: The lands exchanged and the lands subject to the easements will continue to be accessible to the public subject to the terms and conditions of any existing ordinance.

DISABILITY AND SENIOR CITIZEN ACCESS

Disabled and senior citizens will continue to have access to the lands in accordance with any existing ordinance.

RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council approve this Ordinance authorizing the City Administrator to negotiate and execute a Real Property Exchange Agreement with EBRPD to cause the following:

1. Land Exchange. The exchange will merge the maintenance obligation with the ownership of the lands. Except for the Scout Road parcel, the City already maintains the other parcels described in Exhibit A. Similarly, EBRPD now maintains but does not own the lands described in Exhibit B. Except for the Scout Road parcel, the exchange will cause the City to own all the lands that the City now maintains and EBRPD will own all the lands that EBRPD now maintains. As a result of the exchange, the City will own an

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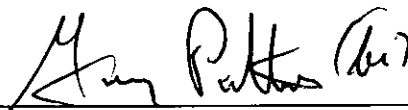
additional 17.95 acres in Shepherd Canyon. Except for the Scout Road parcel, the City already maintains the other parcels described in Exhibit B. The Oakland Wildfire Assessment District funds are available to cover the cost of maintaining the Scout Road parcel.

2. Grant of Easements. The grant of the trail easement and parking lot easement will be subject to the District's preparation of the legal descriptions (at no cost to the City) and the EBRPD obligation to maintain the easements and to indemnify and hold the City harmless from any third party claims relating to the easements. The granting of the parking lot easement will eliminate the City's need to maintain the parking lot resulting in cost savings of about \$32,000 per year.

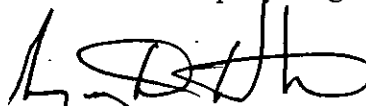
ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council approval of this ordinance.

Respectfully submitted,



Claudia Cappio
Development Director, Community and
Economic Development Agency



Gregory Hunter, Deputy Director,
Redevelopment and Economic Development,
Community and Economic Development
Agency

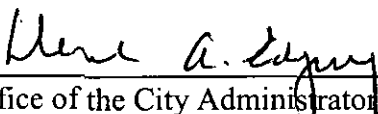
Reviewed by:

Frank Fanelli, Manager of Real Estate Division

Prepared by:

Ed Kawamoto, Real Estate Agent
Real Estate Division

APPROVED AND FORWARDED TO THE
LIFE ENRICHMENT COMMITTEE:


Office of the City Administrator

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Exhibit A

East Bay Regional Park District Land Exchange

Proposed Land Transfer from the City of Oakland to the East Bay Regional Park District

Location (Council Dist.)	Assessor's Parcel Number	Acres	Square Feet	General Plan	Zoning	Comments
1. Claremont Canyon on Panoramic Way. (Dist. 1-Brunner)	048H-7699-009-00	.06	2,593	Res. Cons.	R-20/S-10	Hillside open space or green belt. EBRPD maintains this parcel.
2. Lake Temescal on Broadway Terr. (Dist. 1-Brunner)	048H-7531-001-00	1.8	79,306	Hillside Residential	R-20/S10	Part of the south parking lot. EBRPD maintains this parcel.
3. Skyline and Waterloo (Dist. 4-Quan)	048D-7291-004-00	.20	9,055		R-30/S-10	Residential lot adjacent to Redwood Regional Park used as trailhead. Located between 2 homes. EBRPD maintains this parcel.
4. Skyline: Joaquin Miller Park and Roberts Regional Park (Dist. 4-Quan)	029-1200-07-00	3.3	143,748		OS (RCA)/S-10	Part of Robert's Recreational Area. EBRPD maintains this parcel.
Total		5.39	234,702			

Exhibit B

**East Bay Regional Park District
Land Exchange**

Proposed Land Transfer from the East Bay Regional Park District to the City of Oakland

Location (Council Dist.)	Assessor's Parcel Number	Acres	Square Feet	General Plan	Zoning	Comments
1. Scout Rd. (Dist. 4- Quan))	048D- 7244-12- 03	5.37	233,802	Res. Cons.	R-20/ S-10	Hillside open space or green belt. City will become responsible for maintenance. To connect creek from this parcel to Shepherd Canyon Park, easement through 3 privately owned parcels are required or bridge or pedestrian walkway from parking lot will be required. Two adjacent owners are interested in acquiring part of the parcel (1.5 acres)
2. Park Blvd.: Shepherd Canyon (Dist. 4- Quan)	048E- 7348-28- 02	.32	13,746	Hillside Residential	R-20/ S-10	Part of the Shepherd Canyon Trail. City already maintains the trail.
3. Park Blvd.: Shepherd Canyon Rd. (Dist.4- Quan)	048E- 7348-67- 00	7.29	317,392		OS (RCA)/ S-10	Part of the Shepherd Canyon Trail. City already maintains the trail.
4. Snake Rd. (Dist.4- Quan)	048E- 7349-32- 00	2.33	101,487		OS. (RCA)/ S-10	Part of the Shepherd Canyon Trail. City already maintains the trail.

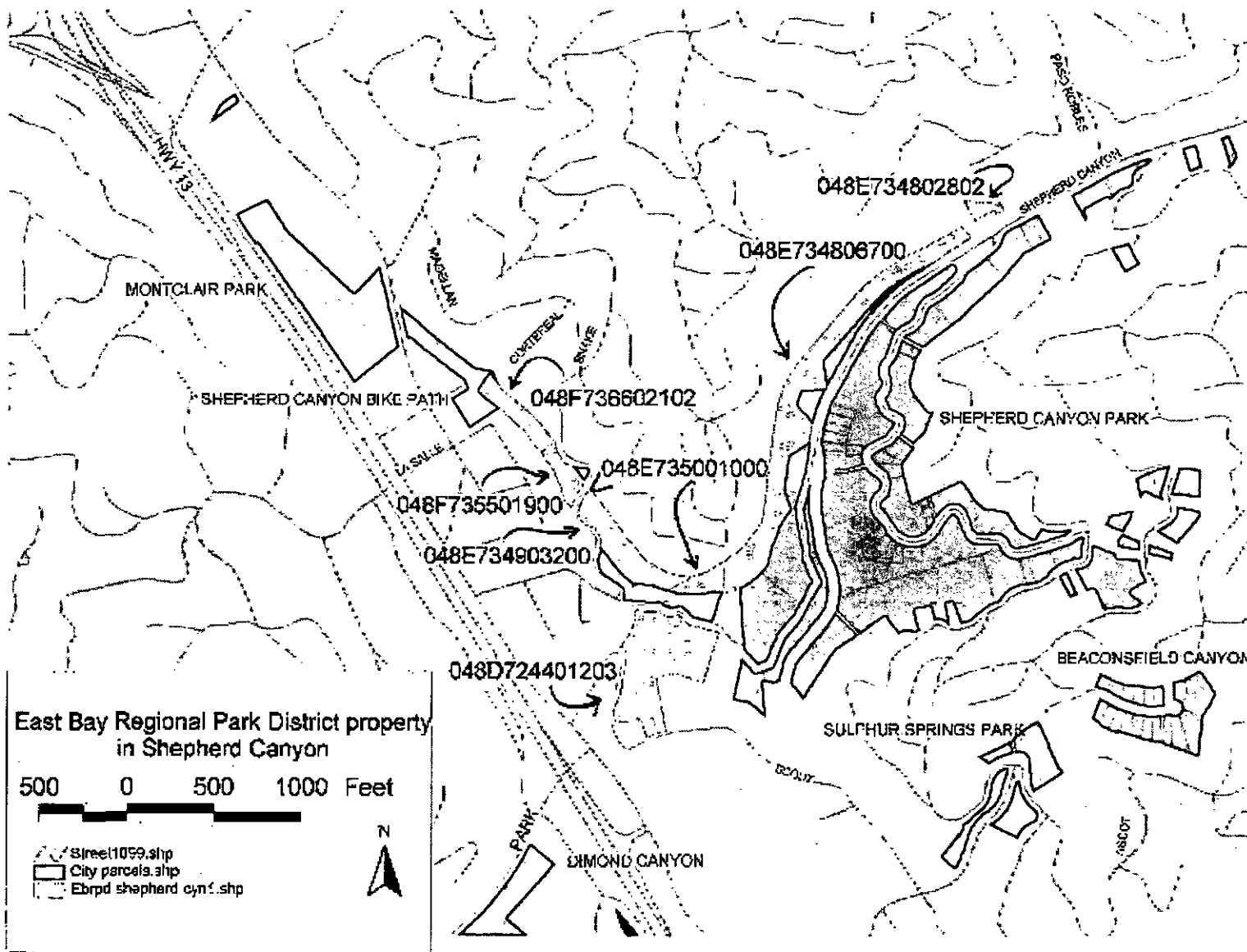
Location	Assessor's Parcel Number	Acres	Square Feet	General Plan	Zoning	Comments
5. Park Blvd.: Shepherd Canyon Rd. (Dist.4- Quan)	048E-7350-10-00	.69	29,843		OS (RCA)/ S-10	Part of the Shepherd Canyon Trail. City already maintains the trail.
6. Snake Rd. (Dist.4- Quan)	048F-7355-19-00	.78	34,175		OS (RCA)/ S-10	Part of the Shepherd Canyon Trail. City already maintains the trail.
7. LaSalle Ave. (Dist.4- Quan)	048F-7366-21-02	1.17	50,836		OS (RCA)/ S-10	Part of the Shepherd Canyon Trail. City already maintains the trail.
Total		17.95	781,281			

Exhibit C

**East Bay Regional Park District
Land Exchange**

Lands of the City of Oakland subject to proposed easements to East Bay Regional Park District

Location (Council Dist.)	Assessor's Parcel Number	Acres	Square Feet	Use	Scope of Services	Comments
1. Skyline Blvd.: Redwood Bowl Parking Lot (Dist. 4-Quan)	029-1200-07-00	.73	32,000	Parking lot	EBRPD provides weekly sweeping	City provides utilities (electricity, and water), and light bulbs
2. Skyline Blvd. : west ridge trail below COSC (Dist. 4-Quan)	029-1201-01-02	.34	15,000	Trail	EBRPD maintains the trail	
Total		1.07	47,000			



STATE PLACE
ADJACENT TO
CLAREMONT CANYON
REGIONAL OPEN SPACE

048H769300200
.06 AC

**Selected City properties adjacent to
East Bay Regional Park District facilities**

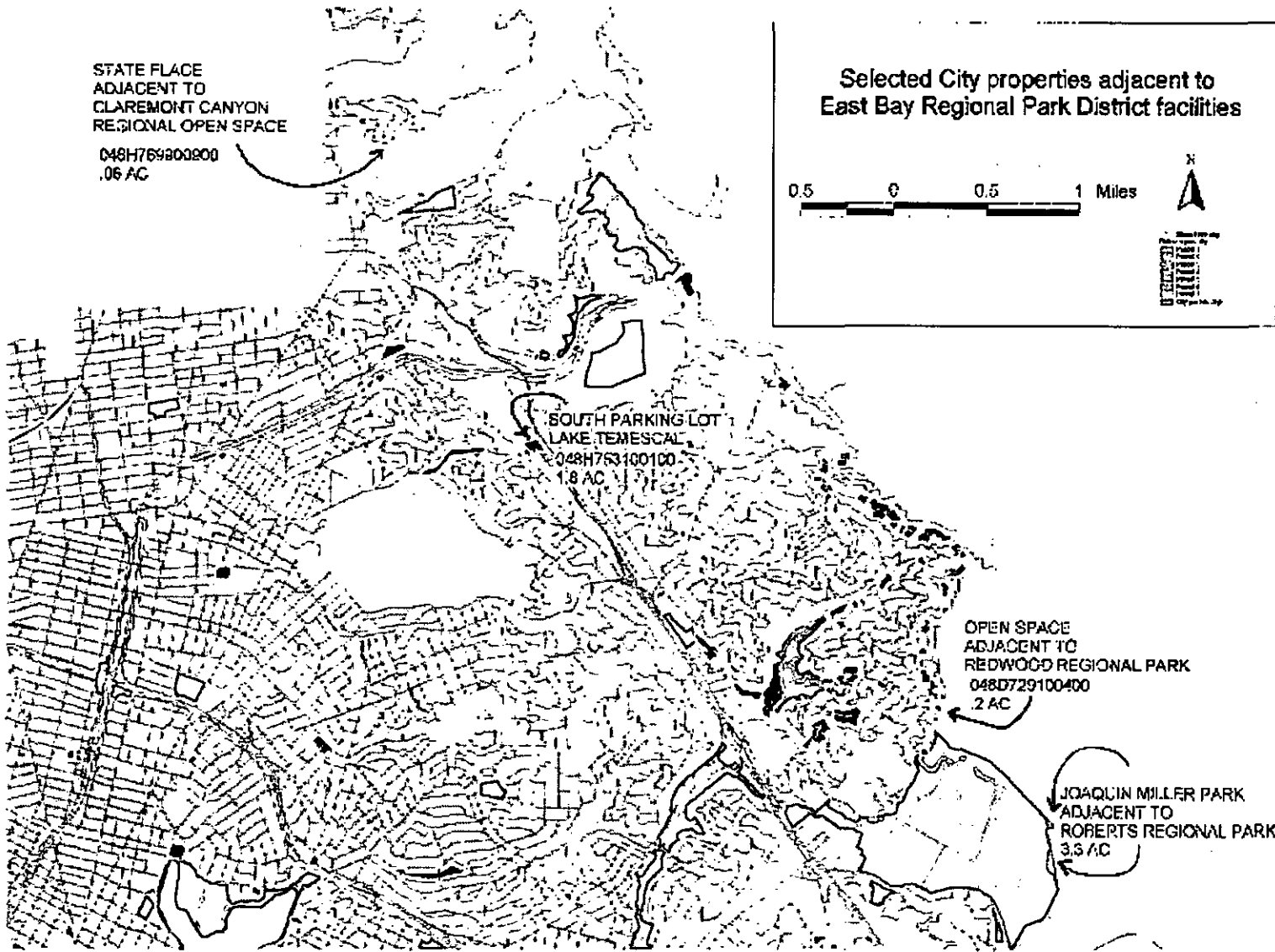
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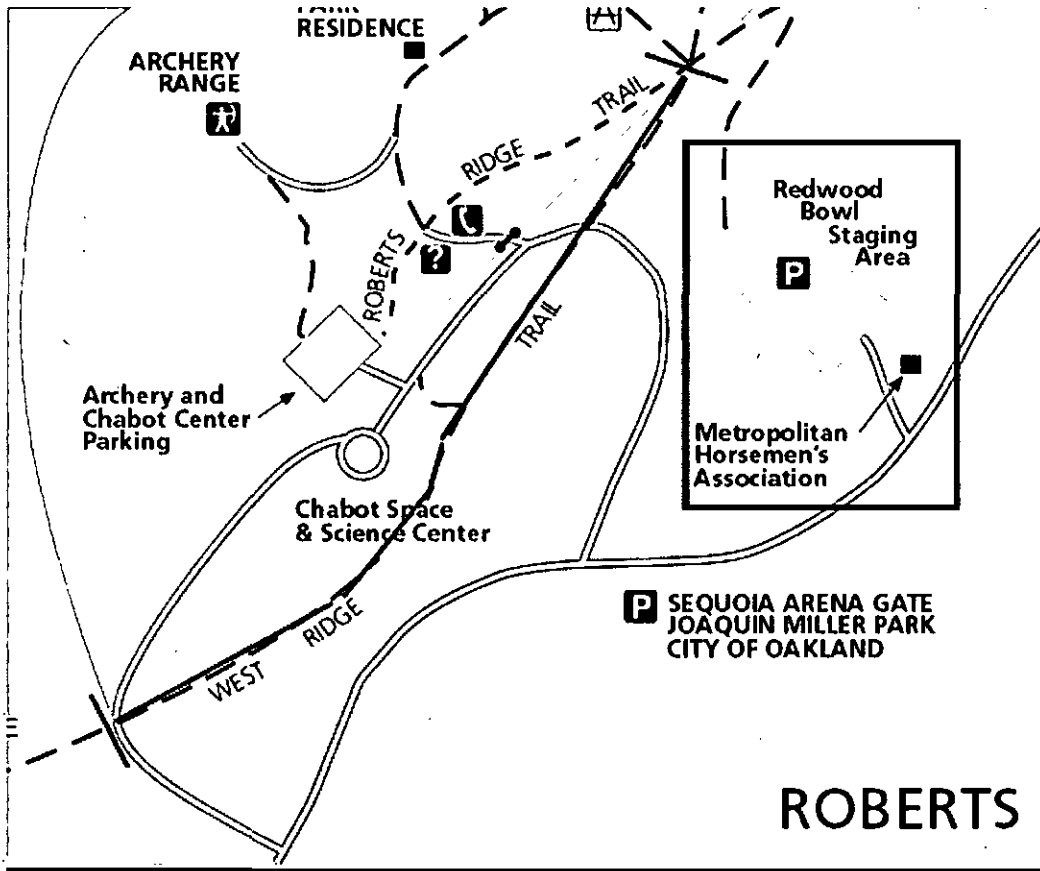


SOUTH PARKING LOT
LAKE TEMESCAL
048H763100100
1.8 AC

OPEN SPACE
ADJACENT TO
REDWOOD REGIONAL PARK
048D729100400
2 AC

JOAQUIN MILLER PARK
ADJACENT TO
ROBERTS REGIONAL PARK
3.3 AC





P SEQUOIA ARENA GATE
JOAQUIN MILLER PARK
CITY OF OAKLAND

ROBERTS

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OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO (1) NEGOTIATE AND EXECUTE A REAL PROPERTY EXCHANGE AGREEMENT WITH THE EAST BAY REGIONAL PARK DISTRICT ("EBRPD") FOR THE EXCHANGE OF CITY OF OAKLAND OWNED LANDS LOCATED NEAR ROBERTS REGIONAL RECREATION AREA, REDWOOD RECREATIONAL PARK, TEMESCAL REGIONAL AREA, AND THE CLAREMONT CANYON REGIONAL PRESERVE, FOR EBRPD OWNED LANDS LOCATED IN SHEPHERD CANYON, AND (2) GRANT A WEST RIDGE TRAIL EASEMENT AND A REDWOOD BOWL PARKING LOT EASEMENT TO EBRPD IN CONSIDERATION OF ITS PAYMENT OF THE CITY'S SHARE (\$15,000) OF THE COST TO PREPARE THE LEGAL DESCRIPTIONS OF THE PROPERTIES TO BE EXCHANGED

WHEREAS, for a number of years the City of Oakland ("City") has maintained park land owned by the East Bay Regional Park District ("District"), and the District has maintained park land owned by the City; and

WHEREAS, the City and the District entered into a Memorandum of Understanding ("MOU") dated March 27, 2000 which required the following:

1. The District and the City to enter into a Real Property Exchange Agreement for the transfer of the City-owned lands shown on the map attached to the MOU and attached as Exhibit A hereto, in exchange for the District-owned lands shown on the map attached to the MOU and attached hereto as Exhibit B.
2. The District and the City to share the cost of preparing all legal descriptions required for the exchange, but limiting the City's share to \$15,000.
3. The District to grant an Encroachment Permit to the City for the purpose of installing the sanitary relief sewer pipeline through the Oakland Regional Park, to expire on December 31, 2001; and

WHEREAS, the City has installed the sanitary relief sewer pipelines in accordance with the Encroachment Permit; and

WHEREAS, the City and the District now desire to enter into Real Property Exchange Agreement to effectuate the exchange; and

WHEREAS, the City and the District desire to amend the MOU to require the District to pay the City's share of the cost (not to exceed \$15,000) of preparing the legal description for the properties involved in the exchange as consideration for the City granting the District a trail easement over the West Ridge Trail and a parking lot easement over the Redwood Road Parking Lot, at no cost to the City, with the easements subject to the District's obligation to maintain both easements and to indemnify and hold the City harmless from any third party claims relating to both easements; and

WHEREAS, the City has been maintaining the Redwood Road Parking Lot and the grant of the parking lot easement to the District is expected to save the City about \$32,000 per year; and

WHEREAS, the requirements of the California Environmental Quality Act of 1970 ("CEQA"), the CEQA Guidelines as prescribed by the Secretary of 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. Consent to negotiate and execute a real property exchange agreement pursuant to the MOU, which shall provide for the following:

1. The City Administrator is authorized to exchange City owned lands identified in Exhibit A for the District owned lands identified in Exhibit B.
2. The City Administrator is authorized to grant the trail easement and the parking lot easement in consideration for a) the District's full payment of the City's share (not to exceed \$15,000) of preparing the legal description of the lands involved in this exchange and b) the District's obligation to maintain both easements and to indemnify and hold the City harmless from any third party claims relating to the easements.

Section 2. The City Administrator is authorized to transfer City-owned lands to the District and to accept District-owned lands from the District.

Section 3. The City Administrator, or her designee, is authorized to negotiate and execute the exchange agreement, to execute Quitclaim Deeds conveying the City-owned land to the District, to negotiate and execute the easements and any and all other documents necessary to effectuate the provisions of this Ordinance.

Section 4. That 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 Council directs the City Administrator to file a Notice

of Exemption and an Environmental Declaration (CA Fish and Games Code Sec. 711.4) with the County of Alameda.

Section 5. The City Attorney's Office shall approve the real property exchange agreement as to form and legality and a copy shall be filed with the Office of the City Clerk.

Section 6. This Ordinance shall become effective immediately on the 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, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California



NOTICE AND DIGEST

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO (1) NEGOTIATE AND EXECUTE A REAL PROPERTY EXCHANGE AGREEMENT WITH THE EAST BAY REGIONAL PARK DISTRICT (“EBRPD”) FOR THE EXCHANGE OF CITY OF OAKLAND OWNED LANDS LOCATED NEAR ROBERTS REGIONAL RECREATION AREA, REDWOOD RECREATIONAL PARK, TEMESCAL REGIONAL AREA, AND THE CLAREMONT CANYON REGIONAL PRESERVE, FOR EBRPD OWNED LANDS LOCATED IN SHEPHERD CANYON, AND (2) GRANT A WEST RIDGE TRAIL EASEMENT AND A REDWOOD BOWL PARKING LOT EASEMENT TO EBRPD IN CONSIDERATION OF ITS PAYMENT OF THE CITY’S SHARE (\$15,000) OF THE COST TO PREPARE THE LEGAL DESCRIPTIONS OF THE PROPERTIES TO BE EXCHANGED

This Ordinance authorizes the City Administrator to negotiate and execute a real property exchange for a number parcels owned and maintained by the City of Oakland for parcels owned and maintained by the East Bay Regional Parks District, and to grant easements for a trail and a parking lot.