

OFFICE OF THE CITY CLERK  
2007 JUN 27 11:51

# CITY OF OAKLAND

## AGENDA REPORT

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly, City Administrator  
FROM: Community and Economic Development Agency  
DATE: July 10, 2007

**RE: Ordinance Authorizing the City Administrator To Negotiate, Execute And Acquire Property Rights In An 11,960 Square Foot Parcel Of Land, Located On Butters Drive Between Robinson and Brunell Drives, For Open Space, From Butters Land Trust For The Amount Of One Hundred Eighty-Five Thousand Dollars ((\$185,000) Plus Closing Costs Not To Exceed Five Thousand Dollars (\$5,000) For The Measure DD Watershed Acquisition Project.**

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### SUMMARY

An Ordinance has been prepared authorizing the City Administrator, or her designee, to negotiate, execute and acquire property rights in an 11,960 square foot parcel of land, located on Butters Drive between Robinson and Brunell Drives, for open space from Butters Land Trust, (Owners), for \$185,000 plus closing costs not to exceed \$5,000 from Measure DD funds. The Property will remain in its natural condition with native trees and undergrowth and will be permanently protected as open space, subject only to the conditions of the Wildfire Assessment District fire fuel reduction efforts.

The Owner has agreed to sell the property rights to the City of Oakland (City) for the fair market value of \$185,000 with the City paying all closing costs not to exceed \$5,000. The acquisition price is consistent with the fair market value of the Property. Staff recommends the passage and adoption of this Ordinance authorizing the City to acquire the property rights.

### FISCAL IMPACT

Funds totaling \$190,000 to purchase the Property will be allocated from Measure DD Fund (5320); Capital Projects – Environmental Services Organization (92280); Watershed Acquisition Project (C244910).

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

## **BACKGROUND**

On November 5, 2002, the City of Oakland voters 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 Improvements Program is administering these funds for acquiring creekside properties of high aesthetic, habitat and/or water quality protection value. City Council Resolution No. 77965 C.M.S., dated July 15, 2003, authorized the appropriation of funds from Bond Series A.

City Council Resolution No. 78750 C.M.S., dated July 20, 2004, authorized expenditure of up to \$350,000 of Measure DD funds for the purchase of properties in Butters Canyon. City Council authorized purchase of two (2) canyon lots in City Council Ordinance No. 12670 C.M.S., dated June 7, 2005. This new acquisition represents the third lot to be acquired by the City within Butters Canyon. The acquisition of these three lots comprises full expenditure of the \$350,000 in Measure DD funds set aside for Butters Canyon.

Butters Land Trust purchased this property in September 2005 for a total amount of \$185,000. This is the same amount being requested by Butters Land Trust for the proposed sale to the City. Review of comparable sales by CEDA Real Estate Services indicates that this amount represents fair market value in today's marketplace.

## **KEY ISSUES AND IMPACTS**

Acquisition of the property rights will continue the City's commitment to the voter approved Measure DD Watershed Acquisitions objectives to protect intact riparian habitats. The property is located within a contiguous one-half linear mile of undeveloped lands. Development of the property would have impacts on water quality, habitat, and the quality of life of visitors and residents of Butters Canyon. Not acquiring these properties would be losing a promising opportunity to fulfill the goals and intent of voter supported Measure DD.

## **PROJECT DESCRIPTION**

The property being considered for acquisition is within Butters Canyon along a one-half linear mile section of Peralta Creek between Robinson and Brunell Drives. This portion of the Canyon is characterized by headwater riparian habitat and is home to a range of wildlife and plant species. The property is to be acquired by the City from Butters Land Trust and will be preserved as permanently protected open space.

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A negotiated acquisition would be entered into with Butters Land Trust providing for the conveyance of the property rights and its dedication as Open Space. The transaction would provide for:

1. The acquisition of the property rights at the appraised fair market value \$185,000 to be paid in cash to Butters Land Trust.
2. The dedication of the properties as Open Space.
3. An agreement with Butters Land Trust committing them to 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.

The Property will continue to remain as open space and will be available for park use. The project is exempt under California Environmental Quality Act (CEQA), Section 15316 (Transfer of Ownership of Land in Order to Create Parks) and Section 15325 (Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources). A Notice of Exemption and Environmental Declaration (California Fish and Game Code Section 711.4) will be filed and recorded in the Recorder's Office, Alameda County.

### **SUSTAINABLE OPPORTUNITIES**

Economic: Acquisition of these parcels by the City contributes to 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 ACCESS**

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

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**RECOMMENDATION**

Staff recommends the acquisition of property rights to one (1) parcel of land containing 11,960 square feet known as APN 029-1167-012 located on Butters Drive for an amount not to exceed \$185,000 plus closing costs not to exceed \$5,000 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 the City Council approve the ordinance.

Respectfully submitted,

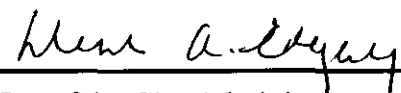
  
\_\_\_\_\_  
**GREGORY HUNTER**

Interim Director of Redevelopment, Economic  
Development, and Housing and Community  
Development

Reviewed by:  
Frank Fanelli, Manager  
Real Estate Services Division

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

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

  
\_\_\_\_\_  
Office of the City Administrator

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OFFICE OF THE CLERK OF THE CITY OF OAKLAND

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# OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C. M. S.

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**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE, EXECUTE AND ACQUIRE PROPERTY RIGHTS IN AN 11,960 SQUARE FOOT PARCEL OF LAND LOCATED ON BUTTERS DRIVE BETWEEN ROBINSON AND BRUNELL DRIVES, FOR OPEN SPACE FROM THE BUTTERS LAND TRUST FOR THE AMOUNT OF ONE HUNDRED EIGHTY-FIVE THOUSAND DOLLARS ((\$185,000) PLUS CLOSING COSTS NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000) FOR THE MEASURE DD WATERSHED ACQUISITION PROJECT.**

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**WHEREAS**, the Oakland Trust for Clean Water and Safe Parks (Measure DD) was passed on November 5, 2002, with 80% voter approval; and

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

**WHEREAS**, the Measure DD, Series 2003A (Bond Capital Improvement Fund) sale in August 2003 provided \$3 million for Watershed Acquisition which has 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 (Watershed Improvement Program Watershed Acquisition Project), which has 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 a parcel of land located on Butters Drive between Robinson and Brunell Drives (APN 029-1167-012), that the City desires to retain as open space; 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 in the land to the City at its fair market value of \$185,000; and

**WHEREAS**, the property shall be held in perpetuity as Open Space; and

**WHEREAS**, the funding for the acquisition of the necessary property rights is available in Measure DD Fund (5320); Capital Projects - Environmental Services Organization(92280); Watershed Acquisition Project (C244910); and

**WHEREAS**, the requirements of the California Environmental Quality Act (“CEQA”), the CEQA guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulation 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 her designee, is authorized to negotiate and acquire the necessary property rights in the real property located at Butters Drive (APN 029-1167-012) from Butters Land Trust for a total amount not to exceed \$185,000 plus closing costs not to exceed \$5,000.

**Section 2.** The funding for the acquisition of the necessary property rights will be allocated from Measure DD Fund (5320); Capital Projects – Environmental Services Organization (92280); Watershed Acquisition Project (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.** 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 with the County of Alameda.

**Section 5.** In accordance with the requirements of the City Charter Article IV, the acquisition of the necessary property rights shall be approved as to form and legality by the City Attorney’s Office prior to execution and a copy shall be filed with the Office of the City Clerk.

**Section 6.** *This Ordinance shall take effect 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, \_\_\_\_\_, 2007  
PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
**LA TONDA SIMMONS**  
City Clerk and Clerk of the Council  
of the City of Oakland, California



**NOTICE AND DIGEST**

**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE, EXECUTE AND ACQUIRE PROPERTY RIGHTS IN AN 11,960 SQUARE FOOT PARCEL OR LAND LOCATED ON BUTTERS DRIVE BETWEEN ROBINSON AND BRUNELL DRIVES, FOR OPEN SPACE FROM BUTTERS LAND TRUST FOR THE AMOUNT OF ONE HUNDRED EIGHTY-FIVE THOUSAND DOLLARS (\$185,000) PLUS CLOSING COSTS NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000) FOR THE MEASURE DD WATERSHED ACQUISITION PROJECT.**

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This Ordinance authorizes the City Administrator to acquire property rights to a parcel of land containing 11,960 square feet of unimproved land from Butters Land Trust for \$185,000 plus closing costs not to exceed \$5,000 from Measure DD funds.