



DATE: November 18, 2009

TO: Honorable Mayor and City Council

FROM: Economic and Community Development Department

SUBJECT: **APPROVAL OF THE ACQUISITION OF TWO PARCELS OF REAL PROPERTY AND AN EASEMENT INTEREST FROM THE ENVIRONMENTAL TRUST FOR HABITAT PURPOSES**

SYNOPSIS

Staff recommends that the City Council approve the acquisition of two parcels of real property located at the southwest corner of El Camino Real and Highway 76 ("Vista de la Valle") and located east of Mission Avenue, south of Mission Gate Drive ("Mission View"), together with acquiring a conservation easement over a third parcel of real property located south of Oceanside Boulevard, east of Rancho del Oro Road ("Evergreen Nursery") from The Environmental Trust for habitat purposes; authorize the Mayor to execute the applicable conveyance documents; authorize the City Clerk to accept the two grant deeds and the easement deed; and authorize staff to open escrow and consummate the transaction, including the execution of applicable documents by the City Manager.

BACKGROUND

For a number of years The Environmental Trust ("TET"), as a non-profit entity authorized to hold conservation interests in real property, acquired various fee title and conservation easement interests in real property throughout the State of California and San Diego County, including the City of Oceanside. The specific and primary purpose of TET was to protect and preserve lands and other natural resources for open space values. In order to assist TET in the management of its various real property interests, endowments were typically set up to fund the costs associated with managing the conservation interests in each of their properties.

Unfortunately, over the past few years, TET was unable to meet its financial obligations in the management of its various real property conservation interests and TET filed for bankruptcy protection in March of 2005. Under the auspices of the TET Bankruptcy Plan, TET was directed to dispose of the various real property interests of TET prior to the dissolution of TET. Unable to find a party interested in acquiring the various TET

real property interests in Oceanside, TET, per the TET Bankruptcy Plan, approached the City of Oceanside to see if the City was interested in acquiring the TET real property interests in Oceanside.

TET has asked the City to acquire the fee title interest in the "Vista de la Valle" property (approximately 50.5 ac. located at the southwest corner of El Camino Real and Highway 76) and the "Mission View" property (approximately 7.81 ac. located east of Mission Avenue, south of Mission Gate Drive). TET also asked the City to acquire a conservation easement interest in the "Evergreen Nursery" property (approximately 29.6 ac. located south of Oceanside Boulevard, east of Rancho del Oro Road). The TET Bankruptcy Plan would also give the City any remaining endowment allocated to each of the respective properties. Collectively, these properties will hereinafter be referred to as the "Subject Properties".

ANALYSIS

The City is under no obligation to acquire the TET interests in the Subject Properties. However, as most of the municipalities in San Diego County have acquired the various real property interests of TET within their respective boundaries in order to better control important habitat, staff is supportive of the acquisition for the same rationale. The Subject Properties are considered to be part of the City's Multiple Habitat Conservation Program ("MHCP") Subarea Plan ("SAP"), which is currently in the process of completion in coordination with the various State and Federal wildlife agencies, who are supportive of the acquisition by the City.

As a condition to acquiring the fee title interests and the conservation easement interest in the Subject Properties, and as set forth in the TET Bankruptcy Plan, staff insisted that the City was not required to satisfy any existing and/or new condition pertaining to use of the Subject Properties as habitat or for conservation purposes. This condition will also become part of the conveyance documents whereby the City acquires the TET interests in the Subject Properties.

As another condition, the TET Bankruptcy Plan also indicates that the City shall spend the remaining endowment to be given to the City upon acquisition of the Subject Properties on the management thereof. Staff has been informed that the endowment can also be used to pay for the costs associated with the acquisition of the Subject Properties. Additionally, once the endowment is expended, the City will be under no further obligation to expend funds beyond said endowment amounts. Receipt of this endowment funding will also be part of the City's condition to acquire the TET real property interests in the Subject Properties.

As part of the due diligence analysis in acquiring the Subject Properties from TET, staff had a consultant perform a Phase 1 Environmental Assessment Report on each of the Subject Properties. Staff also ordered and reviewed updated Preliminary Title Reports for the each of the Subject Properties. The Phase 1 Environmental Assessment Reports indicated that there were no issues related to environmental matters. The updated Preliminary Title Reports did not reflect any issues related to title matters.

FISCAL IMPACT

There is no fiscal impact to the City's General Fund. As a condition to acquiring the respective interests in the Subject Properties, the Bankruptcy Court will provide the City with funds in the amount of \$164,727. The revenue from the Bankruptcy Court will be placed in General Fund Account No. 320000101.4501.100474. Said funds will be expended out of General Fund Account No. 320000101.5305.100474.

Said funds can and will be used to offset the costs associated with the due diligence review, escrow and title related costs, and any other costs associated with the acquisition of the Subject Properties by the City. These costs are estimated at \$15,000. Any remaining funds will then be expended by the City to perform some of the management functions associated with the interests in the Subject Properties (e.g., trash removal, fencing, signage, etc.).

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY ANALYSIS

The City is authorized to acquire the Subject Properties as proposed. The acquisition documents, if any, should be reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve the acquisition of two parcels of real property located at the southwest corner of El Camino Real and Highway 76 ("Vista de la Valle") and located east of Mission Avenue, south of Mission Gate Drive ("Mission View"), together with acquiring a conservation easement over a third parcel of real property located south of Oceanside Boulevard, east of Rancho del Oro Road ("Evergreen Nursery") from The Environmental Trust for habitat purposes; authorize the Mayor to execute the applicable conveyance documents; authorize the City Clerk to accept the two grant deeds and the easement deed; and authorize staff to open escrow and consummate the transaction, including the execution of applicable documents by the City Manager.

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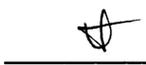
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