



18-1093

Agenda Date: 2/5/2019

REPORT TO COUNCIL

SUBJECT

Authorize the City Manager to Execute a Conditional Agreement for the Purchase of Park Land from Property Located at 1142 Dahlia Court (Commonly Referred to as the Corn Palace), Approve Budget Modification No. 16, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Sections 15004(b)(2)(A) and 15317

BACKGROUND

On July 14, 2009, City Council considered “Parks of the Future” study that addressed Sunnyvale’s parks and open space needs for the next twenty years (RTC 09-183). This is to create a community supported blueprint for providing high quality parks and recreation for all residents. In this study, it was determined that Sunnyvale is a largely built-out City and there are limited opportunities to acquire open space. The Corn Palace property was identified as one of the few opportunities for the City to acquire park land.

The Corn Palace property was originally a 20-acre parcel of agricultural land located west of Lawrence Expressway. In 2013, the western portion of the property was developed into 55 single family homes, while the rest of the property continued to be farmed until 2015. Now the owners of this portion are in contract to sell the land to a developer, who is proposing a new development of 58 single family homes; a portion of this property is currently proposed for park acquisition as discussed in this staff report. Staff identified two acres as an adequate size for a park at this location.

EXISTING POLICY

Council Policy 1.2.7 Acquisition, Leasing and Disposition of City-Owned Real Property

Section 1: Acquisition of Real Property for Municipal Purposes

Real property shall be acquired for current or future municipal purposes, and/or to benefit the community. The City shall acquire real property in accordance with Sunnyvale Municipal Code Section 2.07 and the following:

- A. Offers to purchase real property shall only be made after a budget appropriation has been approved by the City Council that identifies the amount of funds available and the purpose of the acquisition. Once a budget appropriation has been approved, authority to make offers to purchase real property is delegated to the City Manager up to the appropriation limit for the purposes identified when funds were appropriated.
- B. Prior to an offer being made, an estimated value shall be established with a final value determined by a qualified appraiser. The appraised value shall be provided to City Council prior to its final decision to purchase real property.
- C. Every effort shall be made to acquire real property through negotiations, reserving the use of

eminent domain for those circumstances when immediate possession is required and the parties have reached impasse (property cannot be acquired through negotiation at a cost approximating current market value).

D. A high priority will be given to acquiring undeveloped land needed to meet City goals. Developed land should be acquired in reasonable proximity to the time the property is desired for City purposes.

E. Prior to the acquisition of real property, a professional title search shall be completed.

F. The City shall comply with the requirements of the California Environmental Quality Act.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) provides that agencies must complete environmental review as early as feasible in the planning process to enable environmental considerations to influence project program and design, yet late enough to provide meaning information for environmental assessment. Accordingly, agencies cannot formally decide to proceed with the use of a site for facilities before completing CEQA review. However, agencies “**may enter into land acquisition agreements when the agency has conditioned the agency’s future use of the site on CEQA compliance.**” (CEQA Guidelines, Section 15004(b)(2)(A)).

An Environmental Impact Report (EIR) is being prepared for the proposed Corn Palace development (“the Project”). The EIR will identify the Project’s significant environmental impacts, feasible mitigation measures, and alternatives that would potentially lessen the Project’s impacts. Before approving the Project, the Planning Commission (or City Council if appealed from Planning Commission or there is a call for review by 2 councilmembers) must certify the EIR, adopt a Mitigation Monitoring and Reporting Program, and adopt a Statement of Overriding Considerations for any environmental impacts that cannot be mitigated to a less-than-significant level.

The City’s acquisition of the 2-acre park is contingent on the City’s approval of the underlying Project. The City retains full discretion under the Purchase and Sale Agreement to decline to approve the Project. The City may (i) make such modifications to any entitlements, permits or approvals as may be necessary to impose feasible measures to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, (iv) determine not to proceed with the development project in the event there are substantial environmental impacts that cannot be mitigated so the project can be approved without a statement of overriding considerations, or (v) take such other actions to approve or not approve the project consistent with their lawful exercise of discretion.

In addition, the acquisition of the property is categorically exempt under CEQA Guidelines Section 15317 (the Class 17 exemption) because the City is acquiring a fee interest in a parcel of agricultural land in order to preserve its open space character. The future development of park facilities such as buildings, playgrounds, playing fields, etc., will be subject to appropriate CEQA review prior to approval.

DISCUSSION

Trumark Homes LLC. (Trumark) intends to develop 58 homes on 9.09 acres on the Corn Palace property. As part of their conditions of approval, Trumark would be required to dedicate 0.725 acres

for use as a park. Since staff identified 2 acres as a more appropriate size for a park at this location, and since this was confirmed by Council in closed session, the City is proposing to acquire an additional 1.275 acres to complete a 2-acre park.

The purchase price of the additional 1.275 acres will be \$7,307,822 plus costs incurred by Trumark. The total cost of the acquisition is not to exceed \$8,035,634. Some of the costs identified are the cancellation of the Williamson Act, environmental remediation costs, demolition and grading costs and escrow, title and transfer fees. The Williamson Act contract is a State of California program where a property owner agrees to maintain property in agricultural use for a rolling ten-year period in exchange for lower property tax. Cancellation of the contract requires a payment to the State Lands Commission.

All requirements for real property acquisition have been met per Council Policy 1.2.7. The agreement in Attachment 1 is contingent upon approval of the development application at the Planning Commission or City Council if appealed to or called for review by the City Council. If this agreement is approved, it does not provide any approval or have any bearing on the development application itself.

FISCAL IMPACT

The total cost to acquire the property is \$8,035,634. As part of the budget process, 20% of the revenue received from park impact fees is reserved in a Land Acquisition Reserve in the Park Dedication Fund. The balance in this reserve as of the beginning of FY 2018/19 is \$22,162,045. Staff is recommending approval of Budget Modification No. 16 to appropriate funding from this reserve to fund the acquisition of this land. Additionally, staff is requesting \$25,000 in funding for securing and maintaining the property until the park improvements are constructed. It is estimated that construction costs for the park will be approximately \$4 million. Staff will include these costs in the FY 2019/20 Recommended Budget.

**Budget Modification No. 16
FY 2018/19**

	Current	Increase/ (Decrease)	Revised
Park Dedication Fund			
<u>Expenditures</u>			
New Project - Purchase and Maintenance of Park Property at 1142 Dhalia Ct.	\$0	\$8,060,634	\$8,060,634
<u>Reserves</u>			
Capital and Infrastructure Reserve	\$22,162,045	(\$8,060,634)	\$14,101,411

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board

outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Find that the Action is Exempt from CEQA Under Sections 15004(b)(2)(A) and 15317 of the CEQA Guidelines, Authorize the City Manager or his designee to execute the Purchase and Sale Agreement and Joint Escrow Instructions in the amount of \$7,307,822 between the City of Sunnyvale and Trumark Homes LLC. in substantially the same form as in Attachment 1 and Approve Budget Modification No. 16 in the amount of \$8,060,634.
2. Do not authorize the City Manager or his designee to execute the Purchase and Sale Agreement and Joint Escrow Instructions as presented and direct staff to go back and negotiate different terms as determined by Council.
3. Do not authorize the City Manager or his designee to execute the Purchase and Sale Agreement and Joint Escrow Instructions.

STAFF RECOMMENDATION

1. Alternative 1: Find that the Action is Exempt from the California Environmental Quality Act (CEQA) Under Sections 15004(b)(2)(A) and 15317 of the CEQA Guidelines, Authorize the City Manager or his designee to execute the Purchase and Sale Agreement and Joint Escrow Instructions in the amount of \$7,307,822 between the City of Sunnyvale and Trumark Homes LLC. in substantially the same form as in Attachment 1 to the report and Approve Budget Modification No. 16 in the amount of \$8,060,634.

Prepared by: Sherine Nafie, City Property Administrator
Reviewed by: Chip Taylor, Director, Public Works
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Purchase and Sale Agreement and Joint Escrow Instructions