



Meeting Date: June 7, 2021

Agenda Item: 7.1

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Authorization to Finalize the Ashland-Mateo Street Acquisition (RESOLUTION)

Executive Summary:

The Board of Directors will consider approval of the acquisition of the Ashland-Mateo Street property and the authorization of the General Manager to finalize the purchase and sale agreement for the property, to relocate the remaining residential tenant, and to proceed with mitigation planning for the property's soil and structures.

Financial Impact:

The 5-Year Capital Improvement Program 2020-2025 (CIP) includes funding allocated to this project as Ashland-Mateo Street Acquisition project (CIP No. 6-162.02). These funds are proceeds from the Measure F1 Bond Program. The following is a summary of the estimated acquisition costs and proposed funding sources:

COST OF ACQUISITION	
Sales Price	\$2,200,000
Title Company & Closing Fees	\$ 20,000
Buyer's Broker Commission	\$ 22,000
Due Diligence	\$ 50,000
Environmental Analysis	\$ 150,000
Relocation Planning	\$ 50,000
Legal Counsel	\$ 15,000
Reserve (Demolition, Mitigation etc.)	\$ 803,000
TOTAL COST OF ACQUISITION	\$3,310,000

FUNDING SOURCE

Ashland-Mateo St (CIP No. 6-162.02)	\$3,310,000
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Staff Recommendation:

Staff recommends the Board of Directors, by motion:

1. Approve the acquisition of the Ashland-Mateo Street property by Grant Deed for \$2,200,000.00;
2. Authorize the General Manager to finalize the purchase and sale agreement for the acquisition of the Ashland-Mateo Street property and to execute a Certificate of Acceptance of the Grant Deed and such other documents necessary to complete the acquisition;
3. Authorize the General Manager to approve the transfer of funds into escrow towards the purchase of the property, as outlined in the final Closing Documents and not to exceed \$50,000;
4. Assume the commercial lease with SBA Towers IV, LLC and the residential lease with XXXX and authorize the General Manager to perform the duties and obligations thereunder;
5. Authorize the General Manager to contract with appropriate consultants to prepare a relocation plan and to provide necessary assistance and benefits under the California Relocation Assistance Law for the remaining residential tenant all in an amount not to exceed \$50,000; and
6. Authorize the General Manager to contract with appropriate consultants to prepare the necessary mitigation plans for the site's soil and structures, in accordance with appropriate authorities in Alameda County, for an amount not to exceed \$100,000.

Description of Item:

In Summer 2018, District staff became aware of the availability of the Hemenez properties located at 16037-16082 Mateo Street in the unincorporated community of Ashland, and the possibility of its purchase for park and recreational purposes. Upon review of this opportunity by the Board, the District entered into a Purchase and Sales Agreement (PSA) with the Estate of Henry Hemenez ("Hemenez Estate"), owner of the 1.40 acre property, at a price of \$2,700,000. A District-obtained appraisal, dated July 3, 2018, identified the property's value at \$2,770,000.

The District's Parks Master Plan identifies the Ashland area as being seriously park deficient and this property is an excellent location for a neighborhood park. However, the property's sale was burdened with three major challenges. First, the property as a

location for a neighborhood park. However, the property's sale was hindered with three major challenges. First, the property, as a part of the Hemenez Estate, is in probate and could not be sold without the approval of the Alameda Superior Court. Second, the site's historic use had been an automotive tow and salvage yard, was still full of vehicles and parts, and subject to potential hazardous materials contamination. Finally, there are a residential and commercial tenant on the property with existing leases with the Hemenez Estate.

During the lengthy due diligence period under the PSA, which has been extended eleven times via amendments to the PSA, until June 30, 2021, District staff was able to address all the substantive issues possibly impacting the acquisition and they now appear to be resolved. First, the probate court, in July 2019, authorized the co-administrators of the Hemenez Estate to continue with the sale of the property to the District. The court's action allowed District staff to proceed with its due diligence review of the property. This included a review of potential planning issues, an ALTA survey of the three parcels comprising the property, and, significantly, the examination of the environmental conditions of the property's structures and soil. In addition to the likely soil issues relating to a tow yard, the seller declaration made the District of an unresolved matter with the Alameda County Department of Environmental Health (ACDEH) regarding the prior removal of an underground tank without a permit.

Second, the Seller removed the vehicles and debris from the property which allowed the District to proceed with site mitigations. District staff and environmental consultants have examined the conditions of soil and structures, to the satisfaction of the ACDEH, so that a final mitigation work plan could be developed for ACDEH approval. This will include closing the issue of the underground storage tank, that was removed by the Hemenez family in the 1990's without a permit from the County. After multiple months of investigation and analysis by two environmental assessment consultants, the cost to mitigate the parcels commensurate with a new park was estimated upwards of \$1,000,000. Since the costs of mitigation are the responsibility of the property owner, the District's real estate brokers, after consultation with the Board, were able to negotiate a \$500,000 reduction in the final purchase price to \$2,200,000.

Prior to any cleanup effort, a mitigation work plan will need to be developed for approval by ACDEH. The cost of District's consultants for this mitigation work plan of the property's environmental issues are estimated not to exceed \$100,000. The final contracting for the actual mitigation, as well as the obtaining of a permit from the County, will be presented to the Board for separate approval.

Third, issues regarding the two tenants are almost resolved. The commercial tenant is a cell tower company, SBA Tower IV, LLC, whose lease will be assumed by the District upon the close of escrow. This facility will remain on the property, with future park plans accommodating its needs, both physically and for access. Under the lease, monthly rent is 35% of a revenue sharing agreement. The current rent is estimated to be approximately \$3,500. The lease's term of 5 years is due for renewal on May 24, 2022.

All but one of the residential tenants have already left the property. Therefore, upon the close of escrow, the remaining residential lease will also be assumed by the District. The District, as a public agency developing a property on which a residential tenant is located, is subject to the requirements of the California Relocation Assistance Law (Government Code Section 7260 et seq.) and its implementing regulations. This will require the District to prepare and approve a tenant relocation plan, which describes the relocation assistance and benefits to be provided to the residential tenant which include assistance in locating a similar residential unit and the payment of moving costs.

The District's consultant will work with the tenant to develop a mutually acceptable relocation plan and after a 30-day notice and response period the final draft relocation plan will return to the Board for adoption. Measure F1 Bond funds will be used to fund the relocation and will not to exceed \$50,000.

Finally, it should also be noted that under the Eighth Amendment to the PSA, the Hemenez Estate is entitled to certain naming rights to the new park being developed on the property. The "Hemenez Family" name is to be used in some manner in regards to the facility developed on the property.

While this has been a lengthy and involved transaction, with significant issues still ahead, staff recommends the Board authorize the finalization of the District's purchase of the Hemenez property. This crucial acquisition allows the District to build a neighborhood park in Ashland.

ATTACHMENTS:

Description	Upload Date	Type
Exhibit A - Site Plan	5/28/2021	Exhibit
Exhibit B - Purchase and Sale Agreement	5/28/2021	Exhibit
Exhibit C - Legal Description	5/28/2021	Exhibit
Resolution - Finalizing Purchase of Ashland-Mateo St property	5/27/2021	Resolution Letter