



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: General Services
Department No.: 063/057
For Agenda Of: June 6, 2023
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors

FROM: Departments Kirk A. Largerquist, General Services Director (805) 560-1048
George Chapjian, Community Services Director (805) 568-2478

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Kirk A. Largerquist
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George Chapjian
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Contact Info: Skip Grey, Assistant Director, General Services (805) 568-3083
Jeff Lindgren, Assistant Director, Parks Division (805) 568-2475

SUBJECT: Donation of approximately 77-acres of land in an unincorporated area of the County of Santa Barbara, Assessor Parcel Numbers 059-020-059, -041, -042, -048, -039 and -058, and Acquisition of approximately 24-acres of land in an unincorporated area of the County of Santa Barbara, Assessor Parcel Numbers 059-020-040, -049, -050, -051 and -052 (003994) District 1

County Counsel Concurrence

As to form: Yes

Other Concurrence: Planning & Development and
Community Services Departments

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the original and duplicate original Donation Agreement and Escrow Instructions, between the County of Santa Barbara (“County”), as Recipient, and Channel Islands Restoration, Inc., a California public benefit, non-profit corporation, as Donor, to the County of the property consisting of approximately 77-acres located, in the unincorporated area of Santa Barbara County, known as Assessor Parcel Numbers 059-020-059, -041, -042, -048, -039 and -058, (“Parcels”);

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- b) Approve and authorize the Chair to execute the original and duplicate original Purchase Agreement and Escrow Instructions between the County of Santa Barbara (“COUNTY”), as Buyer, and Channel Islands Restoration, Inc., a California public benefit, non-profit corporation, (“OWNERS”), as Sellers, to purchase the property consisting of approximately 24-acres of land in an unincorporated area of the County of Santa Barbara, known as Assessor Parcel Numbers 059–020–040, –049, –050, –051, and –052, (“LOTS”);
- c) Authorize the Director of General Services, or designee, to execute any and all escrow documents and complete the due diligence required to facilitate the terms and conditions of the proposed donation and acquisition;
- d) Approve and authorize the Clerk, upon satisfaction of the terms and conditions of the Donation and Purchase Agreements and Escrow Instructions, to execute the Certificate of Acceptances consummating the donation and purchase and accepting title to the LOTS and Parcels;
- e) Approve and authorize the Director of General Services, or designee, to expend funds in conjunction with the donation, in a total amount not to exceed \$5,000, plus title and escrow fees, including staff costs, processing fees and any other costs required to facilitate the transaction pursuant to the Donation Agreement and Escrow Instructions;
- f) Approve and authorize the Director of General Services, or designee, to expend funds in a total amount not to exceed the purchase price \$1,965,000, plus title and escrow fees, including staff costs, processing fees and any other costs required to facilitate the transaction pursuant to the Purchase Agreement and Escrow Instructions;
- g) Approve and authorize the County Executive Office, or designee, to transfer State Grant Funds from the California Natural Resources Agency, minus any State’s fees and costs in an amount not to exceed \$300,000, upon receipt of funds from the State of California;
- h) Approve Budget Revision Request 0008853; and
- i) Determine that the recommended actions are exempt from California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Sections 15316 – Acquisitions of land in order to establish a park where the land is in a natural condition and either a management plan has not been prepared or a management plan proposes to keep the area in a natural condition, and 15325 – Transfers of ownership interests in order to preserve open space or to preserve land for park purposes, and direct staff to file and post the attached Notice of Exemption on that basis.

Summary Text:

This item is on the agenda for the approval of the proposed donation of real property consisting of approximately 77-acres located, in the unincorporated area of Santa Barbara County, known as Assessor Parcel Numbers 059–020–059, –041, –042, –048, –039 and –058, and –052, (“Parcels”) and proposed acquisition of real property consisting of approximately 24-acres of land in an unincorporated area of the County of Santa Barbara, known as Assessor Parcel Numbers 059–020–040, –049, –050, –051, (“LOTS”). The recommended actions include authority to execute the Real Property Donation and Acquisition Agreements and Escrow Instructions, which will allow for public open space and passive

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recreational uses, such as hiking trails, as well as use for public access, wildlife, native plants and habitat preservation, and ecological restoration and protection of native species and their habitats, in the County of Santa Barbara.

Background:

In 2005, the County approved a residential development on approximately 101-acres identified as San Marcos Foothills West Mesa Properties (“West Mesa Properties”), adjacent to the San Marcos Preserve, an approximately 200-acre open space parcel owned by the County. Prior to the construction of the residential development, a community organization, Save the San Marcos Foothills (“SSMF”), negotiated a 90-day purchase option to acquire the West Mesa Properties.

The Foothills Forever Campaign (“CAMPAIGN”), an unincorporated association, launched a fundraising campaign managed by SSMF, Channel Island Restoration (“CIR”), local Chumash and community volunteers to acquire the West Mesa Properties for permanent preservation to provide habitat, public open space and passive recreational uses. The CAMPAIGN entered into a Fiscal Sponsorship Agreement to become a fiscal sponsorship fund of the Santa Barbara Foundation, Inc. (“SANTA BARBARA FOUNDATION”) to receive and disburse CAMPAIGN funds.

In the summer of 2021, over 5,500 community donations, two loans and an option to purchase agreement, enabled SSMF and CIR to successfully acquire the West Mesa Properties of approximately 101-acres for the CAMPAIGN. The CAMPAIGN stated, with successful acquiring the West Mesa Properties, its intent is to eventually convey fee title to the County or “another appropriate entity”. CIR secured loans, totaling \$4.4-million, to timely exercise the 90-day purchase option of the West Mesa Properties in June 2021. The acquisition by CIR, preserved the West Mesa Properties, by conveyance of two lots and Deed of Trust to lender and conservation partner, Allemall Foundation, LLC., as well as, a Deed of Trust to a private individual, to secure the purchase loans of the West Mesa Properties.

Even though the fundraising by the CAMPAIGN, included \$2 million from the Board of Supervisors in 2021 and \$3 million from the California State Legislature appropriations, neither of which were available in time for the June 2021 acquisition, thus necessitating interim financing to secure the West Mesa Properties for the community.

With the \$2 million from the County, \$3 million from the State Funds appropriated and the County of Santa Barbara Parks Division operating and maintaining the San Marcos Park that is located south of the West Mesa Properties and with the 200-acre San Marcos Preserve east of San Marcos Park, the CAMPAIGN engaged in discussions with the County regarding donating and/or acquiring the 101-acres of the West Mesa Properties. These discussions culminated in utilizing the State funds combined with the County funds for the CAMPAIGN to exercise its rights of the option agreement, retire the remaining debts and obligations with CIR, that will enable the County to become the fee owner of the West Mesa Properties by entering into donation and acquisition agreements with CIR. Entering into the agreements between the County and CIR would accomplish the permanent protection of the West Mesa Properties in accordance with the CAMPAIGN and vest ownership with the County.

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Discussion:

The Donation Agreement and Escrow Instructions, (Attachment 1), between the County of Santa Barbara (“County”), as Recipient, and Channel Islands Restoration, Inc., as Donor, provides for six Parcels, total approximately 77-acres, identified as Assessor Parcel Numbers 059-020-059, -041, -042, -048, -039 and -058, to be donated to the County, along with the Purchase Agreement and Escrow Instructions, (Attachment 2), between the County of Santa Barbara (“COUNTY”), as Buyer, and Channel Islands Restoration, Inc., (“OWNERS”), as Sellers, for the COUNTY to purchase the adjacent LOTS totaling approximately 24-acres, being identified as Assessor Parcel Numbers 059-020-040, -049, -050, -051 and -052. The approximate combined total of the six donation Parcels and acquisition of the five LOTS is 101-acres shown on Attachment 3.

With two deeds of trust totaling \$4.45 million on the West Mesa Properties, the County applied for and was awarded a grant from the State of California, solely for the Foothills Forever Project, in the amount of \$3 million. In addition, the Board of Supervisors allocated a budget of \$2 million, to be utilized for the acquisition of four LOTS as part of County.

The California Natural Resources Agency (“CNRA”) has been delegated the responsibility for allocating the \$3 million State Grant Funds for the Foothills Forever Project. A provision in the Grant states only 90%, \$2,700,000, of the \$3 million will be disbursed into escrow towards the Foothills Forever Project. The 10% withholding, \$300,000, minus any State’s fees and costs, will be provided to the County, once CNRA is been provided with recorded Grant Deeds, final escrow closing statements and any other documents CNRA may require once the County becomes the fee owner of the West Mesa Properties.

The California State Legislature directed that the State Grant Funds are solely for the Foothills Forever Project, and the CAMPAIGN has budgeted these remaining funds as part of their fundraising campaign. CIR’s Board of Directors has adopted Board Resolution 20230410-01 directing all proceeds of the sale and any withheld funds are authorized to be directed to the CAMPAIGN. Therefore, any remaining and withheld funds, pursuant to the Donation and Acquisition Agreements of the West Mesa Properties/ Foothills Forever Project, will be remitted by escrow and the County to SANTA BARBARA FOUNDATION. This includes withholding amount provided to the County from the State Grant Funds for the benefit of the CAMPAIGN.

CIR has requested the County’s cooperation with respect to their tax filings for the donated parcels. The Donation Agreement states, if an appraisal is necessary on the six Donation Parcels, and a request is made by CIR, the County will cooperate with the appraisal of the six Donation Parcels, which is necessary for IRS Form 8283. Once the appraisal is completed, the County would complete Part V, Donee Acknowledgement (Attachment 1, Exhibit E) of CIR’s IRS Form 8283. These obligations between CIR and the County have been addressed and accepted by CIR in the Donation Agreement and Escrow Instructions.

The costs and fees to complete the transaction of the Donation and Acquisition Agreements that are the responsibility of the County shall be deposited into escrow by the County. The costs and fees to complete the transaction of both Agreements by CIR, CAMPAGIN and SANTA BARBARA FOUNDATION shall be paid from the purchase price, deposited by the County and Grant Funds. In the event, the costs and fees that are the responsibility of CIR are insufficient to close both escrows, CIR is obligated to deposit funds allowing recordation of the Grant Deeds and closing of escrows. In the event there are funds in the

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escrows’ surplus to the purchase, sale and donation, all remaining and residual monies shall remit to the SANTA BARBARA FOUNDATION for the benefit of the CAMPAIGN in accordance with CIR’s Board Resolution 20230410-01, except for the costs and fees, deposited into escrow by the County, to complete the transaction of the Donation and Acquisition Agreements that were specifically the responsibility and obligation of the County.

As part of the process for the County to become the fee owner of the Property, a request, pursuant to Government Code Section 65402(a), was sent to the Planning Commission on February 1, 2023, for the determination if the proposed donation and fee acquisition of the Property is consistent with County’s General Plan. The Planning Commission deemed the proposed donation and acquisition is in conformity with its General Plan pursuant to Government Code Section 65402(a) and that the future use of the Property for public access and passive public recreation would be consistent with the PRD-20 (Planned Residential Development, 20 units), land use designation. The Property will remain in conformance with the Planned Residential Development land use designation because the proposed donation and acquisition is to provide for public open space and passive recreational uses, such as hiking trails, as well as use for public access, wildlife, native plants and habitat preservation, and ecological restoration and protection of native species and their habitats on the West Mesa Properties.

In accordance with California Government Code Sections 25350 and 6063, a Notice of Intent to Purchase the Property was published in the Santa Barbara News-Press once a week for three successive weeks. The publication dates occurred May 22nd, 30th and June 5th of this year.

The recommended actions are exempt from California Environmental Quality Act (CEQA) review pursuant to: CEQA Guidelines Sections 15316 – Acquisitions of land in order to establish a park where the land is in a natural condition and either a management plan has not been prepared or a management plan proposes to keep the area in a natural condition; and Section 15325 – Transfers of ownership interests in order to preserve open space or to preserve land for park purposes.

Fiscal and Facilities Impacts:

Budget: The attached Budget Revision Request 0008853 provides the funding for the Forever Foothills Project acquisition transaction.

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY 2022- 23 Cost</u>	<u>Total One-Time Project Cost</u>
General Fund - Cannabis Revenue	\$ 2,000,000.00	\$ 2,000,000.00
Total	\$ 2,000,000.00	\$ 2,000,000.00

Narrative: The attached budget revision, (Attachment 6), provides the necessary funding for the County portion of the Forever Foothills Project acquisition transaction. The \$2,000,000 allocation from the General Fund-Cannabis Revenue was approved by the Board of Supervisors during the FY 2021-22 budget process for the purpose of the acquisition of the LOTS specified above, and is available and being re-budgeted this fiscal year, FY 2022-23, due to the actual timing of this transaction.

Staffing Impacts:

None

Special Instructions:

After Board action, distribute as follows:

1. Duplicate Original Donation Agreement and Escrow Instructions Agreement.
Duplicate Certificate of Acceptance. Clerk of the Board Files
2. Duplicate Original Purchase Agreement and Escrow Instructions Agreement.
Duplicate Certificate of Acceptance. Clerk of the Board Files
3. Original Donation Agreement and Escrow Instructions Agreement Signature Pages,
Original Certificate of Acceptance and Minute Order. Real Property, Attn: James Cleary
4. Original Donation Agreement and Escrow Instructions Agreement Signature Pages
Original Certificate of Acceptance and Minute Order. Real Property, Attn: James Cleary
5. Copies of documents and Minute Order Auditor-Controller,
Attn: Betsy Schaffer

Attachments:

1. Donation Agreement and Escrow Instructions;
2. Purchase Agreement and Escrow Instructions
3. West Mesa Properties Donation Parcels and Acquisition LOTS
4. Donation Certificate of Acceptance
5. Purchase Certificate of Acceptance
6. Budget Revision Request 0008853
7. CEQA