TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE SERVICES

DATE: DECEMBER 13, 2004 CMR: 506:04

SUBJECT: APPROVAL OF A RESOLUTION AND ADOPTION OF AN ORDINANCE AUTHORIZING THE EXCHANGE OF LAND BETWEEN THE CITY OF PALO ALTO AND THE PALO ALTO UNIFIED SCHOOL DISTRICT FOR THE PURPOSE OF ADJUSTING THE BOUNDARY BETWEEN WALTER HAYS SCHOOL AND RINCONADA PARK

RECOMMENDATION
Staff recommends that the City Council hold a public hearing, and then approve the attached: 1) Resolution overruling any protests and authorizing the exchange of land between the City of Palo Alto and the Palo Alto Unified School District for the purpose of adjusting the boundary between Rinconada Park and Walter Hays School without increasing or decreasing the area of either property; 2) Ordinance adjusting the boundary of Rinconada Park; and 3) Agreement for Exchange of Real Property Pursuant to Government code Sections 38440 et seq. The purpose of the exchange is to abate the Walter Hays School encroachment into Rinconada Park.

BACKGROUND
Several years ago, the Palo Alto Unified School District (PAUSD) mistakenly placed two portable classrooms and constructed playground structures within the boundaries of Rinconada Park. When notified of the encroachment, PAUSD agreed by resolution to correct the encroachment no later than September 1, 2002.

Subsequently, PAUSD requested that the City consider a proposal of an exchange of land where by the City grants it the land necessary to accommodate the structures currently on City parkland, and in exchange, PAUSD would grant the City an equal portion of its land. On June 23, 2003, the City Council referred to the Parks and Recreation an “enabling” ordinance to authorize the exchange of minor portions of parkland for contiguous lands of an equal or greater area of value. On November 13, 2003, the Parks and Recreation Commission voted against the staff recommendation and recommended that the Council refer the exchange of minor portions of parkland to the voters as an amendment to the City of Palo Alto Charter.
On December 9, 2003, the Policy and Services Committee considered the staff’s recommendation to approve an enabling ordinance to authorize the exchange of minor portions of parkland for contiguous lands of an equal or greater area of value. The Policy and Services Committee voted against the recommendation and instead recommended that the Council refer the exchange of minor portions of parkland to the voters as an amendment to the City of Palo Alto Charter.

On July 6, 2003, the PAUSD Deputy Superintendent Bob Golton sent a letter to the City supporting the Policy and Services Committee recommendation and offering to pay half of the cost of the election in November 2005. The Palo Alto City Clerk estimated the cost of the ballot measure as $100,000. The PAUSD estimated the cost to remove portables, cut back the kindergarten play yard and to reconfigure the existing landscaping at $300,000.

On July 12, 2004, Council considered the staff recommendation to: 1) accept the PAUSD offer to pay half of the cost of the November 2005 election; and 2) seek voter approval at the municipal election in November 2005 of a Charter Amendment to exchange minor portions of parkland for contiguous lands of an equal or greater area or value in order to implement Article VIII of the Palo Alto City Charter. Council did not approve the staff recommendation and instead approved a motion to direct staff to return with an Ordinance to provide a land exchange with the Palo Alto School District and not go to an election.

On November 8, 2004, Council approved a resolution of intention setting a public hearing for December 13, 2004 on the proposed exchange with the PAUSD in which the City would convey a minor portion of Rinconada Park for an equal portion of Walter Hays School property. Holding a properly noticed hearing is the first required step in the land exchange process.

**DISCUSSION**

At its meeting July 12, 2004, Council members expressed concern about the high cost to both the City and the PAUSD of accomplishing the exchange by means of a Charter amendment to be placed on the ballot for voter approval. An alternative, which the Council preferred, was to accomplish the exchange through an Ordinance, which would apply only to this particular land exchange, and which would not interfere, change or modify the Charter or park dedicated lands.

The Charter of the City of Palo Alto requires that the electorate approve any sale or other disposition of dedicated park property, except when the City Council conveys “a minor portion of such park in exchange for equal or greater area or value of privately owned land contiguous to the park” after notice and a public hearing. The proposed exchange and boundary realignment between Rinconada Park and Walter Hays School involves a minor portion of the park. The total area of the park is 491,742 square feet (11.2888 acres). The City will receive 8,405 square feet (0.193 acres) and convey 8,405 square feet (0.193 acres). The City will receive land of an equal area and value to that it conveys. The park will be as useful for park, recreation, open space and conservation purposes after the exchange as it was before the encroachment occurred.

In accordance with the City Charter, the attached Resolution authorizes the exchange between the City and the PAUSD of the minor portions of land in Rinconada Park and Walter Hays School respectively. As stated in the resolution, notice of the exchange is in the public interest.
because it will preserve the physical and operational integrity of Rinconada Park and Walter Hays School and prevent the waste of scarce resources better devoted to the education of children and maintenance of parks; and the procedure is in compliance with the Palo Alto City Charter and the State law. The attached Agreement between the City and the PAUSD will accomplish the exchange according to specific terms and conditions, including the requirement that each party pay its own expenses related to the exchange and that the PAUSD indemnify and hold harmless the City from all claims related its use of the City’s property.

Following Council approval of the attached Resolution and Agreement, documents will be executed and deeds accomplishing the exchange recorded. Also attached for introduction is an Ordinance to realign the Rinconada Park boundary.

**RESOURCE IMPACT**
The property exchange involves equivalent areas of land in terms of size and value. The property exchange will not impact current park use or associated costs.

**POLICY IMPLICATIONS**
The Charter of the City of Palo Alto, incorporating Government Code section 38441, allows the City Council to convey “a minor portion of such [dedicated] park in exchange for an equal or greater area or value of privately owned land contiguous to the park” after providing notice and a public hearing, determining that the exchange is in the public interest, and adopting a resolution.

**ENVIRONMENTAL REVIEW**
The proposed resolution and property exchange agreement are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15305; therefore, no environmental assessment is necessary.

**ATTACHMENTS**
Attachment A: Resolution Authorizing the Property Exchange
Attachment B: Agreement for Exchange of Real Property
Attachment C: Site map showing proposed areas to be exchanged.
Attachment D: Ordinance to Adjust the Rinconada Park Boundary

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cc: Palo Alto Unified School District