TO:                HONORABLE CITY COUNCIL

FROM:               CITY MANAGER            DEPARTMENT: COMMUNITY SERVICES

DATE:               SEPTEMBER 12, 2005     CMR: 368:05


REPORT IN BRIEF
Pursuant to Council action on February 22, 2005 approving a grant funding agreement and associated conservation easement with Santa Clara County for the acquisition of the Peninsula Open Space Trust (POST) Arastradero Gateway property, this staff report recommends that Council now approve a Budget Amendment Ordinance in the amount of $1,110,305 to provide for the balance of the funding for purchase of the property using funds from the Budget Stabilization Reserve, and approve the purchase of the POST property at the guaranteed price of $3,560,000.
RECOMMENDATION
Staff recommends that Council:
1. Staff recommends that the City Council adopt the attached Budget Amendment Ordinance (BAO) in the amount of 1,110,305 (Attachment A) from the Budget Stabilization Reserve for the purpose of the acquisition of the POST property.
2. Approve and authorize the Mayor to execute the attached purchase agreement with the Peninsula Open Space Trust (Attachment B) in the amount of $3,560,000 for the acquisition of the Arastradero Gateway property.

BACKGROUND
In October 2002, POST purchased the 13-acre in-holding within the Arastradero Preserve, formerly owned by Jacqueline Bressler, at a bankruptcy auction for $3,560,000. The parcel was purchased with the intent of holding the parcel for open space purposes. POST offered the City of Palo Alto the opportunity to purchase the Arastradero Gateway property at a guaranteed price of $3,560,000. Since that time, at the Council’s direction, staff and Vice Mayor Kleinberg and Council Member Mossar as Mayor-appointed liaisons to a special fund-raising committee, have been working to assertively pursue numerous grant and fundraising opportunities in order to acquire the property. POST agreed to give the City until October 2005 to complete the purchase of the property. If the City were unable or unwilling to purchase the property, the parcel would be offered for sale on the open market.

Since 2002, staff has sought and obtained the following grants totaling $2,592,210 for the purchase of the property:
- Santa Clara County Park Charter Fund: $1,000,000
- California Coastal Conservancy: $1,000,000
- State of California Per Capita Program: $266,000
- State of California Land & Water Conservation: $162,385

In addition, POST has agreed to allow the City to apply jointly held mitigation funds in the amount of $112,500 from the estate of Jacqueline Bressler towards the purchase of the property. This amount has already been paid to the escrow account as a deposit on the purchase.

DISCUSSION
The purchase of the POST Arastradero Gateway parcel, which is geographically situated in the center of the Enid Pearson Arastradero Preserve, would accomplish three main objectives. The purchase would:
- Complete the Preserve and conserve the land as open space.
- Prevent the property and its riparian habitat from being privately developed as a home or ranch that would compromise the scenic and recreational qualities of the Preserve.
- Expand recreational opportunities by providing a safer and more accessible trail route to Arastradero Lake from the Preserve parking lot, and other low-impact uses.

Staff has actively pursued numerous public and private grant opportunities over the past three years. In addition to the grants outlined above, staff has also sought grants from the Gordon Moore Foundation, California State Wildlife Conservation Fund and the Kresge Foundation.
The Friends of the Palo Alto Parks, together with Vice Mayor Kleinberg and Councilmember Mossar, are continuing to solicit contributions from individual donors in the community. The goal of the campaign is to raise $500,000 by June 2006. To-date, the fund raising committee has developed a comprehensive campaign strategy, identified key potential donors, and has made initial contacts with individuals who can assist with fund raising and special events.

Now that the three-year timeline agreed upon by POST and the City for fundraising has elapsed, POST would like to complete the purchase agreement and be able to use the funds invested in this property for the acquisition of other open space lands in San Mateo and Santa Clara Counties. POST is not willing to grant the City an extension beyond September for the purpose of fundraising. Staff estimates that the three-year no-interest purchase agreement with POST has saved the City approximately $477,930 in interest (based on the average yield on the City's portfolio over the past three years) compared to the City’s costs had it instead used a conventional bridge loan to purchase the property at auction in 2002.

In order to facilitate the sale, POST offered to finance the balance between the guaranteed purchase price of $3,560,000 and the amount raised by the City from grants and donations with a private loan at the rate of 2% above the prime-lending rate. Under this proposal the City would be responsible for paying quarterly interest payments over the ten-year term of the loan, and then paying the principal of the loan at the end of the loan period. Funds for the interest payments, estimated at an average of $71,074 annually (based on the current prime lending rate), would be paid from the General Fund. Over the ten-year term of the loan, interest would amount to $710,736.

Staff thoroughly considered the cost-benefits of the POST loan agreement. Based on the proposed rate, which would currently amount to 8.25% annual interest, staff recommends that the purchase of the property instead be paid from the Budget Stabilization Reserve (BSR). Funds collected from fund raising and from addition grant programs would be used to replenish the BSR. Staff believes that the use of the BSR for this important land purchase is an appropriate use of the BSR fund, especially considering the purchase of this particular parcel has been a desire of the City for more than 25 years.

Staff will continue to work with the Friends of Palo Alto Parks to raise funds and to pursue all public and private grant opportunities in order to replenish funds to the Budget Stabilization Reserve. Use of reserve funds will allow the purchase to be completed while volunteers and staff carefully and strategically pursue private donations according to developed plans.

**ALTERNATIVES TO STAFF RECOMMENDATION**

The grants awarded to the City from the Coastal Conservancy, the Santa Clara County Park Charter Fund, and the Land and Water Conservation Fund program totaling $2,162,385 can be used only for the acquisition of the POST property. If the City chooses not to purchase the property, these grant funds would be forfeited.

Funds from the Roberti-Z’Berg-Harris Block Grant program and the State of California Per Capita Grant program totaling $429,825 could be applied to other City park projects, subject to
meeting certain funding restrictions established by the State, and the approval of a new project proposal by the State Office of Grants and Local Services.

If the City chooses not to purchase the property, POST has informed the City that the property would likely be sold to an individual who bid against POST in the bankruptcy sale, and who continues to be interested in acquiring the property. If this property is not acquired and protected as park land, the property would certainly be developed, compromising the scenic and recreational value of the Preserve as well as creating a significant intrusion on habitat corridors. The integrity of the site’s riparian habitat and the surrounding watershed could also be at significant risk.

As discussed above, the City has the option of borrowing the funds necessary to complete the purchase from POST. This alternative would cost the City $710,736 in interest over the ten-year term of the loan. The proposed interest rate of 2% over prime (currently at 6.25%) compares disfavorably with the City’s investment portfolio of 4.25%.

**RESOURCE IMPACT**

The City will acquire the property for the cost of $3,560,000. Closing costs, title insurance and escrow fees will cost an additional $6,665. The City will use grant funds totaling $2,592,210, and $112,500 in mitigation funds to purchase the property. The balance will be paid from the Budget Stabilization Reserve fund.

Of the $2,592,210 in grant funds awarded to the City, $2,343,860 will be deposited directly into the escrow account. Funds from the Land and Water Conservation Program and partial funds from the Per Capita Grant program and the Roberti-Z’Berg Harris Grant program totaling $248,350 are reimbursable to the City after the close of escrow. The amount of $248,350 is a portion of the $1,110,305 to be paid initially from the Budget Stabilization Reserve. Staff anticipates reimbursement of the $248,350 withheld grant funds within three months of the close of escrow. This amount will be applied back to the Budget Stabilization Reserve, leaving a balance of $861,955 to be replenished to the Reserve by donations and grants.

The property is currently managed by the City under the terms of a cooperative management agreement approved by Council on November 10, 2003. Once the property is purchased, the management agreement will be terminated and the City will assume full responsibility for the property. The acquisition of the property would have very slight impacts on the workload of park rangers. The property is completely surrounded by the Enid Pearson Arasadero Preserve and can be easily monitored by rangers from adjoining trails and roads. There will be a slight increase in operational costs estimated at $2,000 annually for the maintenance of the property.

**POLICY IMPLICATIONS**

This recommendation does not represent any change to existing City policies. The acquisition and protection of open space land is consistent with Policies N-2 and N-4 of the Natural Environment element of the Comprehensive Plan. The purchase of this property to expand open space and recreational opportunities has been an objective of the City since 1978 when former Mayor Sher attempted to purchase the property from Mrs. Bressler. Numerous subsequent attempts have been made to acquire the property from the Bressler family. Since the property
was purchased by POST in 2002, the acquisition of this property from POST has been identified as a key plan in the Open Space Division budget.

**TIMELINE**

- **September 25, 2005**: Close of escrow; payment of $2,456,360 in grant, donation and mitigation funds.
- **September 26, 2005**: Termination of the management agreement with the Peninsula Open Space Trust for the oversight of the Arastradero Gateway property.
- **December 25, 2005**: Receipt of grant reimbursements totaling $248,350 to be paid toward the principal of the Deed of Trust.

**ENVIRONMENTAL REVIEW**

The adoption of a budget amendment ordinance and the adoption of a funding agreement for the acquisition of land are not “projects” as defined by Section 15378 and subject to the California Environmental Quality Act (CEQA). Nor would these actions result in any direct or foreseeable indirect changes to the environment. The intended use of the property as protected open space will not change with the purchase of the property and subsequent dedication as parkland. Environmental review would be required and conducted prior to any physical changes, including any development of the property for recreational activities or the construction of any recreational facilities in the future.

**PREPARED BY:**

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GREG B. BETTS
Open Space Division Manager

**DEPARTMENT HEAD:**

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RICHARD JAMES
Director of Community Services

**CITY MANAGER APPROVAL:**

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EMILY HARRISON
Assistant City Manager

**ATTACHMENTS**

- **Attachment A**: Budget Amendment Ordinance to provide for the purchase of the Property acquisition
- **Exhibit A**: Budget Amendment Ordinances Impacting General Fund Reserves Approved-To-Date in 2005-06
- **Attachment B**: Purchase Agreement between the City of Palo Alto and the Peninsula Open Space Trust