

AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, November 15, 2022

D. BUSINESS BEFORE THE BOARD

I. CONSENT CALENDAR

- h. Authorization to Extend the Option Period for the Proposed Acquisition of 767.8± Acres of Real Property from Coleman Foley, Jr., Trustee, and to Transfer and Appropriate \$200,000 as Additional Option Payment: Morgan Territory Regional Preserve (Reeves/Goorjian)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize staff to extend the option period pursuant to the Option, Purchase and Sale Agreement (“Option Agreement”) with Coleman Foley, Jr. (“Seller”) for the proposed acquisition of 767.8± acres of open space land located on Finley Road (the “Property”), and to transfer, appropriate and deposit into escrow \$200,000 in additional option payment.

REVENUE/COST

The Property may be acquired for a purchase price of \$11.4 million. A \$200,000 payment was previously deposited into escrow following the Park District’s execution of the Option Agreement in September of this year, \$50,000 of which was contributed by the San Francisco Bay Area based land trust Save Mount Diablo. That payment secured an exclusive option to purchase the Property through November 22, 2022. The Option Agreement provides that the Park District can elect to extend the option period through March 24, 2023, in which case an additional \$200,000 option payment is to be deposited into escrow by no later than the current November 22nd deadline to exercise the option. Both option payments will be credited toward the purchase price, but once deposited into escrow will be nonrefundable unless the Seller is in default of any term under the Agreement.

Staff recommends that the Board authorize the transfer and appropriation of Measure WW funding to cover the additional option payment as follows:

SOURCE OF FUNDS:

Measure WW – Designated Acquisitions (CIP 229900WW00)	
CURRENT APPROPRIATION REQUEST	\$200,000
Previous Measure WW Funding Appropriations	210,000
Previous Appropriation of Cash Contribution from Save Mount Diablo	<u>50,000</u>
TOTAL APPROPRIATIONS TO DATE	\$460,000

USE OF FUNDS:

Foley/ Morgan Territory Acquisition (CIP 252100)

Option Payment (applicable to purchase price)

\$200,000

BACKGROUND

The East Bay Regional Park District (Park District) Board of Directors authorized entering into the Option Agreement with the Seller on September 6, 2022 (Resolution No. 2022-09-220). Located along the west side of Finley Road just south and adjacent to Mount Diablo State Park, the 767.8± acre Foley Property is located at the southern approach to the protected open space of Riggs Canyon which extends into the state park and Morgan Territory Regional Preserve. The Property is one of the largest remaining intact but unprotected open space landscapes located adjacent to Mt. Diablo. Acquisition of the Property will prevent the threat of fragmentation of this open space and will present an opportunity to develop a staging area to improve recreational access into this relatively remote area that is laced with an extensive trail network serving the southeast area of Mount Diablo State Park and the westernmost area of Morgan Territory Regional Preserve.

Funding support for the proposed acquisition is being sought from California State Parks and the California State Coastal Conservancy (SCC). The Park District has applied for a \$300,000 Habitat Conservation Fund (HCF) grant from State Parks. An announcement of grant awards for this year's funding cycle is still forthcoming and is anticipated later this fall.

Major funding support is being sought from SCC. The Park District was invited to submit a grant proposal following a June 8, 2022 tour of the Property by SCC staff. A proposal requesting \$7 million in funding assistance was submitted to SCC in August. In early September SCC staff reported that the proposal had passed initial screening and would be considered for funding, and later that month SCC staff confirmed that they will recommend full funding of the District's \$7 million ask to the SCC board of directors at its first regular meeting next year, on February 2, 2023. District staff wish to thank SCC staff for their enthusiasm and support for this land conservation opportunity that directly responds to the state's "California's 30x30" initiative to conserve 30 percent of the state's lands and coastal waters by 2030.

Pursuant to the terms of the Option Agreement, staff recommends that the Board authorize the appropriation of \$200,000 in Measure W funding to extend the option period through March 24th of next year to allow sufficient time for anticipated grant funding from SCC and potential HCF grant funding from State Parks to flow into the escrow established for the proposed acquisition.

Staff will return to the Board of Directors no later than its first regular meeting in March of next year to present an Acquisition Evaluation of the Property and a proposed funding package and to seek final authorization to exercise the purchase option and acquire the Property. Park District funding sources that may be utilized to provide the balance of the funding for this acquisition include a mix of Measure AA and Measure W bond funds from allocation areas in the vicinity of the project and adjacent Mount Diablo State Park, including the Morgan Territory, Diablo Foothills, Sycamore Valley, Round Valley and Tassajara Creek Trail allocation areas.

ALTERNATIVES

No alternatives are recommended.

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO. 2022 – 11 –

November 15, 2022

AUTHORIZATION TO EXTEND THE OPTION PERIOD FOR THE
PROPOSED ACQUISITION OF 767.8± ACRES OF REAL PROPERTY
FROM COLEMAN FOLEY, JR., TRUSTEE, AND TO TRANSFER
AND APPROPRIATE \$200,000 AS ADDITIONAL OPTION PAYMENT:
MORGAN TERRITORY REGIONAL PRESERVE

WHEREAS, on September 6, 2022, by its Resolution No. 2022-09-220, the East Bay Regional Park District Board of Directors authorized entering into an Option, Purchase and Sale Agreement (“Option Agreement”) with Coleman Foley, Jr. (“Seller”) for the acquisition of 767.8± acre property located along the west side of Finley Road north of San Ramon in an unincorporated area of Contra Costa County, and consisting of all or portions of Contra Costa County Assessor Parcel Nos. 204-030-003-6, 204-050-002-3, 220-040-002-2 and 220-100-002-9 (the “Property”); and

WHEREAS, the Property may be acquired for \$11,400,000 (*Eleven Million Four Hundred Thousand Dollars*), its appraised fair market value as supported by an independently prepared appraisal commissioned by the East Bay Regional Park District(Park District); and

WHEREAS, pursuant to the Option Agreement, the Park District previously deposited \$200,000 into an escrow account as consideration for an exclusive option to purchase the Property through November 22, 2022, said initial option payment to be applicable to the purchase price but nonrefundable to the Park District unless the Seller is in default of any term under the Agreement; and

WHEREAS, pursuant to the Option Agreement, the Park District may elect to extend the option period through March 24, 2023, upon deposit of an additional \$200,000 option payment into escrow no later than one business day prior to the expiration of the option period, said additional option payment to also be applicable to the purchase price but nonrefundable to Park District unless as noted above for the initial option payment;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes the extension of the “Option Period” pursuant to the Option, Purchase and Sale Agreement with Coleman Foley, Jr. for the proposed acquisition of 767.8± acre Property as described above; and

BE IT FURTHER RESOLVED, that the Board authorizes the transfer and appropriation of \$200,000 from project account Designated Acquisitions – Measure WW (CIP 229900WW00) utilizing funds from the Morgan Territory allocation area to project account Foley/Morgan Territory Acquisition (CIP 252100) to cover the cost of the \$200,00 option payment required to extend the Option Period through March 24, 2023, as shown on the attached Budget Change form; and

BE IT FURTHER RESOLVED, that the General Manager or her designee is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director _____, seconded by Director _____, and adopted this 15th day of November 2022, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT:

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