

REPORT OF GENERAL MANAGER

NO. 12-089

DATE March 14, 2012

C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: 1171-1177 MADISON AVENUE – EAST HOLLYWOOD PUBLIC GARDEN AND ACHIEVEMENT CENTER – LEASE AND PARTNERSHIP AGREEMENTS WITH LOS ANGELES COMMUNITY GARDEN COUNCIL FOR OPERATION AND MAINTENANCE

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|-----------|-------|-------------|------------------------|
| R. Adams | _____ | K. Regan | _____ |
| H. Fujita | _____ | *M. Shull | <u><i>M. Shull</i></u> |
| V. Israel | _____ | N. Williams | _____ |

[Signature]
 General Manager
 MAR 14 2012

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Approve a proposed 20-year lease agreement of the property located at 1171-1177 Madison Avenue, Los Angeles, California 90029, substantially in the form on file in the Board Office, with Los Angeles Community Garden Council (LACGC), a California non-profit corporation, for the design, development, maintenance and operation of the East Hollywood Public Garden and Achievement Center (East Hollywood Public Garden), subject to the approval of the Mayor, the City Council by ordinance, and the City Attorney as to form, as described in the Summary of this Report;
2. Approve a proposed 20-year partnership agreement, substantially in the form on file in the Board Office, with the LACGC, a California non-profit corporation, setting forth the terms and conditions for the operation and maintenance of the East Hollywood Public Garden, subject to the approval of the Mayor, the City Council, and the City Attorney as to form;
3. Direct the Board Secretary to transmit the proposed Lease Agreement and Partnership Agreement to the Mayor in accordance with Executive Directive No. 3, and concurrently to the City Attorney for review and approval as to form;

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4. Authorize the Board President and Secretary to execute the Lease Agreement and Partnership Agreement, upon receipt of the necessary approvals, and direct the Secretary to request that the Department of General Services (GSD) record a Memorandum of Lease; and
5. Direct the Department's Chief Accounting Employee to deposit fees and utility and other cost recovery reimbursements received from LACGC in the account and sub-account established in Fund 302 Dept 89 for such purpose.

SUMMARY:

LACGC is a non-profit corporation made up of volunteers. It was founded in 1999 with a mission to connect people with community garden space in their neighborhood. Last year, LACGC was awarded \$984,542 in Parks First Trust Fund (PFTF) monies and \$2,400,000 in Community Development Block Grant (CDBG) monies for land acquisition and development of the East Hollywood Public Garden and Achievement Center project on 0.56 acre site located at 1171-1177 Madison Avenue, Los Angeles CA 90029. The project will consist of a community garden and public park. On February 2, 2011, the Board indicated its willingness to accept the property and enter into a lease agreement with LACGC for the development and operation of the project should a PFTF grant be received by LACGC (Board Report No. 11-042).

Although LACGC was awarded the PFTF grant, grant guidelines require that ownership of land acquired with grant funds must be held by the City. As a result, LACGC was to purchase the property from the current owners, with title to the property going to the Department of Recreation and Parks (RAP) through escrow at no cost to RAP, and RAP would in turn issue a Right of Entry (ROE) permit to LACGC to allow for the preliminary design and construction work as well as begin maintenance responsibilities until such time as a long-term lease agreement with LACGC could be drafted and approved by the Board.

On December 14, 2011, the Board of Recreation and Parks Commissioners (Board), through Board Report No. 11-316, approved the acceptance of property located at 1171-1177 Madison Avenue, Los Angeles, CA 90029, consisting of approximately 0.56 acres of vacant land (Assessors Parcel Nos. 5542-028-018 to 020), for the development of the East Hollywood Public Garden and Achievement Center. During the course of the escrow period, it was discovered that the Purchase and Sale Agreement (PSA) listed Los Angeles Neighborhood Land Trust (LANLT) as the "purchaser" rather than LACGC who is the grantee for the PFTF grant and the CDBG funds. This discrepancy came about although LACGC is the applicant/grantee for all the grant funds and they hired LANLT serve as their acquisition agent.

In order to clarify the discrepancies, the parties involved which included the City, LACGC, LANLT and 1175 Madison Properties LLC, decided that LANLT would assign its interests in the PSA to LACGC. The escrow instruction directed that the owner of the property deed the property directly

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to the City. It was further decided that the City, as the final recipient and owner of the subject property, would also be assigned certain rights that the property owner had, as described in the General Assignment document. The Board's action on December 14, 2011, to accept the subject property did not authorize the execution of any ancillary documents related to the acceptance of the property. It was necessary for the Board approve the execution of the General Assignment. On February 15, 2012, the Board, through Board Report No. 12-053, approved the General Assignment document.

In accordance to the Board action last December 14, 2011, a temporary ROE permit was issued to LACGC on February 16, 2012, to give responsibility for the property until a lease agreement is approved and executed.

Department staff has engaged in negotiations with LACGC, with the assistance of the Office of the City Attorney, to establish the proposed terms for the Lease Agreement. Staff recommends that the Board approve the proposed agreement and authorize staff to recommend to City Council to approve the agreement by ordinance as required by Charter Section 594.

The term of the agreement will be for a period of twenty (20) years, beginning on the date of execution of the agreement. As indicated above, the proposed East Hollywood Public Garden will provide members of the community a public park and a central location to plant gardens and other vegetation in plots throughout the property. LACGC also proposes to provide the community with workshops and classes in various activities related to gardening to promote involvement within the community.

PARTNERSHIP AGREEMENT:

On May 4, 2011, the Board approved the Policy on Community Operated Open Spaces, Operating Guidelines for Self-Operated Community Gardens and various recommendations for each of the Department's community garden facilities including those community gardens operated by an outside group or organization (Board Report No. 11-121).

On June 15, 2011, the Board approved the establishment of an account and sub-accounts in Department 89 Fund 302 for deposit of annual fees and utility reimbursements received from organizations which operate community gardens independently pursuant to permits or agreements with the Department and in conformance with the Schedule of Rates and Fees (Board Report No. 11-190).

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One recommendation included in Board Report No. 11-121 was to direct staff to transition the outside group or organization to an agreement for the operation and maintenance of the community garden facility in accordance with the Board's Policy on Partnerships and in conformance to the Community Operated Open Space Policy. Another recommendation was to direct staff to return to the Board for final authorization to execute the agreements.

Partnership Division staff have had discussions with LACGC and have come to a mutual agreement for the operation and maintenance of the subject public garden through the proposed Partnership Agreement. As already stated, the Partnership Agreement provides details on the obligations that LACGC has as far as the operation and maintenance of the public garden. This agreement is intended to be made part of the over-all Lease Agreement that is also recommended for approval. As instructed by the Board, staff is presenting to the Board the proposed twenty (20) year agreement with LACGC for final authorization and inclusion as part of the over-all lease agreement.

LACGC is to design, develop, operate and maintain the proposed East Hollywood Public Garden at their own expense with no costs incurred by the City.

Staff has determined that the proposed project will involve the acquisition, transfer and lease of land to preserve open space, and the development of properties for use as a public park and community gardens. Therefore, the project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(14, 40), Class 4(1,3) and Class 25(5) of the City CEQA Guidelines.

The Assistant General Manager for Operations, the Superintendent of Operations for the Metro Region, and Councilmember Garcetti of the Thirteenth District, all concur with staff's recommendations.

FISCAL IMPACT STATEMENT:

The property which was acquired on behalf of and for ownership by the RAP will also be developed and maintained by LACGC and therefore will have no anticipated impact to the City's General Fund.

This Report was prepared by Cid Macaraeg, Sr. Management Analyst II, Planning, Construction, and Maintenance Branch.