



CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 5, 2005

ITEM NUMBER:

SUBJECT: AGREEMENT AND LAND COVENANT FOR DEVELOPMENT/MAINTENANCE OF A COASTAL SAGE SCRUB COMMUNITY AT FAIRVIEW PARK

DATE: MARCH 24, 2005

FROM: PUBLIC SERVICES DEPARTMENT

PRESENTATION BY: WILLIAM J. MORRIS, PUBLIC SERVICES DIRECTOR

FOR FURTHER INFORMATION CONTACT: ROBERT STAPLES, FAIRVIEW PARK PLAN ADMINISTRATOR (714) 754-5303

RECOMMENDATION

1. Approve the proposed Memorandum of Agreement (Attachment 1) and Land Covenant (Attachment 2) between Headlands Reserve, LLC, and the City of Costa Mesa for the development and maintenance of approximately 11 acres of Coastal Sage Scrub (CSS) at Fairview Park.
2. Approve the addition of five (5) new native species (Attachment 8) to the list of approved plant materials for the CSS areas of Fairview Park.

BACKGROUND

The Fairview Park Master Plan (Attachment 3) was originally approved in March of 1998 and has been revised in February 2001, and again in November 2002. Planning Areas A & C of the plan (Attachment 4) are designated as a CSS and a seasonal creek community. They represent approximately 20 and 22 acres, respectively. Glenn Lukos Associates has prepared a mitigation and monitoring plan that will restore, monitor, and maintain an 11-acre CSS community in the northwest corner of Fairview Park at no cost to the City (Map, Attachment 5). The restoration plan was presented to the Parks and Recreation Commission at the March 23, 2005, meeting for their approval. At that meeting, the Commission concurred with staff that the proposed improvements were in conformance with the Fairview Park Master Plan. The Commission also recommended the approval of additional plant species to be added to the approved list for installation in the CSS area of Fairview Park.

Headlands Reserve, LLC, will create the 11 acres of CSS to compensate partially for impacts occurring within the Headlands Development Project in Dana Point. The Headlands Project consists of 121.3 acres of coastal front property, including a series of coastal bluffs and terraces overlooking the Pacific Ocean and Dana Point Harbor. The Dana Point project will create a variety of land use and circulation improvements including residential and commercial land uses, improved beach access points, three miles of public trails, several parks, and one small visitor recreational facility on 68.5 acres of public open space, of which approximately 50 acres will be managed as natural, open space.

Within the Headlands Project, significant portions of natural habitat are being preserved and restored; however, the site is too small to achieve all of the CSS restoration requirements of the California Coastal Commission on-site. Fairview Park afforded the developers with a site to fulfill the remaining CSS revegetation requirement. The park was chosen for this mitigation because the

northwest portion is an integral part of the lower Santa Ana River ecosystem. This ecosystem provides habitat for a wide variety of native plants and animals, including many threatened, endangered, or otherwise sensitive species.

ANALYSIS

The attached Memorandum of Agreement (Attachment 1) and Land Covenant (Attachment 2) will allow Headlands Reserve, LLC, to proceed with the CSS restoration and monitoring plan at Fairview Park. Approval of these documents is required for the Dana Point project to proceed with the offsite improvements.

I. Memorandum of Agreement (MOA)

Headlands Reserve, LLC will be responsible for obtaining all required government permits, for creating the CSS community, for providing a Biologist/Restoration Specialist to monitor the project, and for performing all maintenance for a minimum five-year period. At the end of the maintenance period, the City would then be required to assume all responsibilities for the upkeep of the CSS area.

With the assistance of the Biologist/Restoration Specialist, a landscape contractor will plant 17,270 one-gallon native plants and spread 352 pounds of seed mix. Prior to site preparation, all undesirable exotic plants will be eradicated. The proposed plant material conforms to the approved plant palette for the CSS area (Attachment 6), except for several additional native species that are requested for approval (see Section III below). To establish the new native plant material, temporary irrigation will be installed. When the plantings are established, the irrigation will be removed.

After the planting has been completed, the five-year maintenance and monitoring plan for this project will begin. During this period, the landscape contractor, in coordination with the Biologist/Restoration Specialist, will perform the following:

- Plant inspection
- Weed control
- Irrigation water volume and frequency
- General maintenance of irrigation system
- Trash and debris removal
- Pest control
- Plant replacement
- Fertilization
- Pruning
- Report submittals

The landscape contractor is solely responsible for the survival of the CSS community. City staff will oversee the contractor and Biologist/Restoration Specialist to ensure the project is being performed per the agreement. If the project meets all agreed upon success criteria at the end of the five-year monitoring period, the revegetation will be considered a success and the City will release the contractor and take over maintenance of the improvements. If the success criteria have not been met at the end of the five-year period, Headlands Reserve will continue to maintain and monitor the project area until the success criteria are met.

II. Land Covenant

As part of the Headlands Project approval, any off-site environmental mitigations must be guaranteed to remain in perpetuity. Therefore, the Headlands, LLC, has requested that the City Council approve a deed restriction that will guarantee the maintenance of the 11-acre CCS site without alteration in the future. This concept is not unlike Section 7.1 of the approved Fairview Park

Master Plan, which recommends that certain “..passive use habitat restoration areas be included in the Natural Community Conservation Plan and Habitat Conservation Plan (NCCP/HCP)” (Attachment 7). While staff is not advocating membership in the NCCP at this time, the intent was to encumber the land for natural/passive uses for a minimum of seventy-five (75) years. The proposed Land Covenant would make the “preservation” concept permanent for the 11 acres being considered. The proposed Land Covenant is consistent with the restrictions already applicable to the entirety of Fairview Park contained in the purchase agreement between the City and the Orange County Harbors, Beaches, and Parks District, which perpetually restricted use of the entire Park to “public park, recreational, and open space uses.”

III. Additional Plant Species

Tony Bomkamp, Glen Lukos Associates, Habitat Restoration Specialist, recommends adding additional species to the seed mix for the CSS community (Attachment 8). The additional plant material will add to the diversity of the mitigation site.

In accordance with Council Policy 500-11 (Attachment 9), the CSS Off-site Mitigation and Monitoring Plan has been reviewed by the Development Services Department, Engineering and Transportation Services Division, Police Department, and Fire Prevention Division, and all find that the proposed improvements are in conformance with the Master Plan.

ALTERNATIVES CONSIDERED

If the City chooses not to enter into an agreement with Headlands Reserve, LLC, or chooses to not approve the Land Covenant, staff will continue to pursue grants and alternative funding for this project.

Council could choose to deny the request for plant species to be added to the approved CSS list for Fairview Park.

FISCAL REVIEW

Headlands Reserve, LLC, is funding the entire cost of the Coastal Sage Scrub creation, restoration, maintenance, and monitoring.

LEGAL REVIEW

City staff and Headlands Reserve, LLC, have developed the proposed agreement and Land Covenant, which would allow for the creation and restoration of the CSS habitat in Fairview Park. Approval of these two documents will allow the improvement to move forward.

The City Attorney has reviewed the plan and proposed agreement/land covenant.

CONCLUSION

The City has been approached by a developer requesting that they be allowed to restore and maintain, for a minimum five-year period, a certain portion of Fairview Park. The improvement would be in accordance with the approved Fairview Park Master Plan, and would provide environmental mitigation for a project being developed in another city.

It is recommended that the proposed agreement and land covenant between Headlands Reserve, LLC, and the City of Costa Mesa be approved for the creation, restoration, and maintenance of approximately 11 acres of Coastal Sage Scrub (CSS) in the northwest portion of Fairview Park. It is further recommended that the Council approve the addition of plant material, as recommended by Glen Lukos Associates, to the Fairview Park CSS plant palette.

WILLIAM J. MORRIS
Director of Public Services

KIMBERLY HALL BARLOW
City Attorney

ROBERT STAPLES
Fairview Park Plan Administrator

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Attachments: 1- [Proposed Agreement](#)
2- [Proposed Land Covenant](#)
3- [Fairview Park Master Plan](#)
4- [Planning Area A & C](#)
5- [Proposed 11-Acre Coastal Sage Scrub Development Site](#)
6- [CSS Plant Palette](#)
7- [Section 7.1 of the Approved Fairview Park Master Plan](#)
8- [Tony Bomkamp, Glen Lukos Associates, Additional Plant Material Letter](#)
9- [Council Policy 500-11](#)

c: City Manager
City Attorney
Deputy City Clerk

HeadlandsAgreementReport

3/22/05

2:00 p.m.