



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh

**SUBJECT: EDENVALE PARK PARKING
GARAGE (UNDERGROUND
PORTION) BID AWARD AND
LEASE AGREEMENT**

DATE: June 4, 2018

Approved

Date

6/14/18

COUNCIL DISTRICT: 2

RECOMMENDATION

- a. Award a bid to JMA Ventures for the lease of the underground portion of the City-owned Edenvale Park Parking Garage for a period of 50 years.
- b. Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Lease Agreement with JMA Ventures for the underground portion of the Edenvale Park Parking Garage for a period of 50 years, based upon the terms and conditions outlined in this memorandum.

OUTCOME

City Council adoption of the resolution will award a bid and allow JMA Ventures, who is the proposed purchaser of the Hayes Mansion, to lease the underground portion of the City-owned Edenvale Park Parking Garage, which contains approximately 142 parking spaces as permitted under the City Charter. As consideration for the lease, JMA Ventures will provide maintenance services and capital improvements detailed in this memorandum.

JMA Ventures has indicated that the Lease Agreement of the underground parking garage is a condition to close the sale of the Hayes Mansion, so adoption of the resolution will allow staff and JMA Ventures to move forward with the sale at a purchase price of \$30,000,000.

BACKGROUND

The Hayes Mansion and the Edenvale Garden Park Parking Facility

The City purchased the Hayes Mansion in 1984 from the former Redevelopment Agency and embarked on a major restoration and development of the property, done over three phases, and funded with approximately \$56 million in bond debt. Bonds initially issued for Phases I, II and III have since been refunded and are now represented by Series 2007A¹, Series 2008C and Series 2008D bonds which are currently outstanding in the collective amount of approximately \$29.3 million.

The Phase III expansion included the addition of 79 guest rooms and 15,000 square feet of meeting space, and was entitled through a Planned Development Permit (File No. PD 00-10-080), issued in December 2000. This Phase III expansion left 109 parking spaces “on-site” at the Hayes Mansion property. The Planned Development Permit required the creation of additional “off-site” parking spaces to serve the needs of the hotel and conference center, and the conformance with a Conditional Use Permit (File No. CP 00-06-039).

The Conditional Use Permit included the replacement of an existing 160-space surface parking lot on the adjacent Edenvale Garden Park with a 356-space parking facility (comprised of 142 underground spaces and 214 surface spaces). Of the 356 parking spaces in the new parking facility, 301 parking spaces are counted toward the parking requirements of the Hayes Mansion hotel and conference center, and 55 parking spaces are counted toward the parking requirements of Edenvale Garden Park. Parks and Recreation Department staff deem the 55 spaces sufficient to serve the park.

For clarity, the chart below shows the parking space requirements in the CUP for each property and the supply of parking spaces on each property:

	Hayes Mansion	Edenvale Garden Park
Parking Spaces Required	410	55
Supply of On-Site Parking Spaces	109	356

¹ Phase I improvements were financed with proceeds from two series of the Authority’s 1993 Bonds which also funded other capital assets and made other monies available to fund the Hayes Mansion improvements. Part of the proceeds of the 2007A Bonds refunded the 1993 Bonds. Debt service related to that transaction is budgeted in the Community Facilities Revenue Fund, the sale of the Hayes Mansion is expected to close after the final budgeted principal payment on the 2007A Bonds attributable to the Hayes Mansion on August 15, 2018. A portion of the 2007A Bonds will remain outstanding attributable to other projects financed/refinanced with the 2007A Bonds.

Surplus/(Deficit) of On-Site Parking Spaces to Meet Parking Requirement	(301)	301
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In 2002, Phase III of the Hayes was completed. Phase III included additional meeting space, 79 rooms and construction of the garage. The Authority issued \$53.3 million in variable rate bonds, of this amount, \$19.8 million was used to refund the Phase II debt and \$25.7 million was used to fund the Phase III construction. A large majority of the parking spaces provided by the Edenvale Garden Park parking facility were built to serve the needs of the Hayes Mansion hotel and conference center. The Hayes Mansion is dependent upon 301 of the 356 parking spaces provided by the Edenvale Garden parking facility for its operations and to comply with its Conditional Use Permit. If a future owner of the Hayes Mansion does not have access to these parking spaces, they would be out of compliance with the Conditional Use Permit (and risk losing the right to operate).

The City has an agreement with Dolce International Holdings, Inc. to operate the Hayes Mansion, which includes operations and maintenance of the parking facility, and non-exclusive use of the parking spaces.

Since its completion in 2002, the underground portion of the garage portion has experienced a number of operational issues. In April 2008, Public Works commissioned a condition assessment report for the underground garage portion prepared by The Crosby Group (structural engineers) that proposed repairing structural concrete cracks, spalling concrete and water intrusion damage in the walls and floor of the underground garage. Although a Public Works project was subsequently developed, it was neither bid nor awarded, due to funding constraints. To date, no repairs have been made. A recent high-level analysis performed by Public Works in January 2017 indicated that repairs to the parking garage – including a more in-depth evaluation, design, and construction costs – could cost approximately \$3 million.

City’s Efforts to Sell the Hayes Mansion

Over the years, the Hayes Mansion has not generated sufficient revenue to fund both annual operating expenses and debt service. As a result, the City has subsidized the asset on an ongoing basis through the General Fund. In November 2008, the City Manager submitted a General Fund Structural Deficit Elimination Plan to address the City’s worsening financial situation and identified the Hayes Mansion as an under-performing City-owned property that should be sold. In addition, former Mayor Reed, and Mayor Liccardo, along with former and current Councilmembers, have directed staff to sell the Hayes Mansion to eliminate the financial burden that has impacted the City’s General Fund.

Until recently, the real estate market had not supported a property value that would allow the City to retire the total outstanding debt. However, through improved economic conditions and

the reduction of the principal debt on the property, the sale of the Hayes Mansion is now a financially viable prospect.

It is important to clarify that the Hayes Mansion and Edenvale Garden Park properties are separate parcels. Any sale of the Hayes Mansion would not include any part of the adjacent park. Edenvale Garden Park (including the parking facility) is a City park, and is subject to the provisions of the San Jose City Charter as described below.

City Charter Article XVII

The San Jose City Charter Article XVII provides certain provisions regarding City parks. While the City's public parks are inalienable (meaning they cannot be transferred) without voter approval, the City Council may enter into a lease or other agreement with a private party for the use of a park as permitted under that Article.

Section 1701 of Article XVII allows the City Council to lease an underground parking area in a park to a highest responsible bidder for a term of up to 50 years, for the purpose of constructing and/or operating an underground public parking station.

ANALYSIS

The Hayes Mansion is located in a generally suburban area that is not well served by public transportation. In addition to the need to conform to the Conditional Use Permit and its parking requirement, the Hayes Mansion is dependent upon much of the parking provided by the Edenvale Garden Park parking facility to operate successfully.

Since 2016, staff have made efforts to identify prospective buyers for the Hayes Mansion. As staff recently developed a proposed purchase and sale agreement with a prospective buyer, staff initiated a competitive bid process for a lease of the underground portion of the Edenvale Garden Park parking facility, according to City Charter Section 1701.

In May 2018, staff developed a bid solicitation for the underground portion of the parking facility, which contained the following information:

Subject Property Information:

- City-owned subterranean parking garage containing approximately 142 parking spaces
- Situated beneath a City-owned surface parking lot containing approximately 214 parking spaces, which provides free public parking to patrons of the Edenvale Garden Park and the Hayes Mansion (the surface parking lot is NOT part of this Solicitation for Bids)

- Part of a City-owned park and is subject to the provisions of the San Jose City Charter Article XVII San Jose Municipal Code, and other government regulations
- Developed in accordance with, and is subject to Planned Development Permit File No. PD00-10-080
- Developed in accordance with, and is subject to Conditional Use Permit File No. CP00-06-039
- Needs substantial repairs

Bid Proposal

Staff sent via email the bid solicitation to a list of approximately 400 real estate brokers on May 24, 2018. Bids were due to staff via email on June 8, 2018. The City reserved the right to reject all bids. Staff received one inquiry and one bid, both from JMA Ventures, who is also the prospective buyer of the Hayes Mansion. After evaluating the bid proposal from JMA Ventures and the bid solicitation requirements, staff concluded JMA Ventures to be the highest responsible bidder.

Staff's Recommendation Regarding the Bid Award and Lease Agreement

Staff recommends that the City Council award this bid to JMA Ventures and authorize the City Manager (or his designee) to negotiate and execute a Lease Agreement for the underground parking structure based upon the terms outlined above, subject to JMA Ventures also taking ownership of the Hayes Mansion property as discussed in a separate City Council item on this agenda.

Because the Edenvale Garden Park parking facility was constructed along with the Phase III expansion of the Hayes Mansion and provides a majority of the parking requirement in the Planned Development Permit and Conditional Use Permit, it is critical that a future owner of the Hayes Mansion have reliable access to parking to operate successfully.

Lease Terms:

- **Property:** Subject Property (subterranean portion of the parking garage 142 spaces) only; Surface parking lot is not included.
- **Term:** Up to 50 years.
- **Use:** Parking for patrons of the Edenvale Garden Park and the Hayes Mansion. Parking must be in conformance with Conditional Use Permit File No. CP00-06-039.
- **Consideration:** Lessee will maintain the property as it is currently maintained during the Term of the Lease, this includes certain lawn areas and the tennis courts. Lessee will make necessary repairs, estimated to be \$3 million, with no contribution from the City.
- **As-Is:** Subject Property is to be leased in "As-Is" condition, without repairs or warranties.

- **Security:** As currently provided, and in conformance with Conditional Use Permit File No. CP00-06-039.
- **Right of First Refusal:** If at any time during the Term the City voters agree to sell the garage and (i) City receives an offer from a third party to purchase the parking garage, or (ii) if City makes an offer to sell, transfer or assign its fee title to the parking garage, the City shall notice the Lessee, and the Lessee shall have the right of first refusal to purchase the property for Fair Market Value by giving written notice to City, within 45 days after receiving City's notice. Should Lessee purchase the Property, Lessee will receive a credit equal to the approved amortized credit over a period of 30 years, done to the Property.
- **Purchase Option:** During the Term, the Lessee may propose to the City to enter into a discussion regarding the purchase of fee title of the parking garage after a vote of the people. Should lessee purchase the Property, Lessee will receive a credit equal to the approved amortized over 30 years' repairs done to the Property. Lessee will work with the City to evaluate and execute any required repairs to ensure the safe and adequate availability of parking for the property.
- **Limitation of Liability:** No limitation of liability.
- **Indemnification:** Mutual indemnification b City and Lessee.
- **Assignment:** Lessee will have the right to assign the Lease to an entity of equal or greater credit capacity and operating expertise during the Term of the Lease, with the reasonable approval of the City.

JMA Ventures' bid proposal includes two key components of consideration:

1. As Lessee, JMA Ventures will provide grounds maintenance services for the adjacent Edenvale Garden Park, including certain lawn areas and the tennis courts, similar to the maintenance provided by Dolce, the City's hotel operator. The Department of Parks, Recreation and Neighborhood Services would otherwise bear the cost of maintaining these areas.
2. As Lessee, JMA Ventures will evaluate and propose needed capital repairs to the underground portion of the garage. JMA will pay for the repairs, which were estimated in 2017 to be \$3,000,000. The City has no obligation to reimburse JMA for these costs. Should JMA purchase the property from the City in the future (which would first require voter approval), City would credit the amortized cost of the repairs made to the purchase price for the property, over a 30-year period.

The Departments of Parks and Recreation Services and Transportation have estimated that the value of the lease consideration for maintenance and operation of the garage, surrounding park area and tennis courts is approximately \$85,000 a year. In addition, JMA is offering to take responsibility for repair of the garage. JMA is aware that the estimated cost for garage repairs is approximately \$3 million. As stated above, JMA has proposed that if the company (or their successor) should be allowed to purchase the garage after a vote of the people, JMA would receive a credit for garage repairs, after amortization over a 30-year period. The 142-space

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underground garage is used on a limited basis. Most days the underground garage is closed, primarily because it is not monitored. Staff estimates that the underground spaces are used less than 15% of the year. Many hotels outside of Downtown provide free parking or charge low daily rates at approximately \$10 per day. As a result, the value of the lease is estimated at approximately \$80,000 annually JMA's proposal ensures that the City has no obligation for either on-going maintenance or repair on an annual basis.

In a separate but related item on the June 26, 2018 City Council Agenda, staff is recommending the sale of the Hayes Mansion property to JMA Ventures for \$30,000,000.

City Council's adoption of this resolution to award a bid and authorize the City Manager or his designee to negotiate and execute a Lease Agreement will allow staff and JMA Ventures to continue moving forward with the proposed sale of Hayes Mansion. However, it is important to note that this agreement will only be executed if the JMA Ventures also acquires the Hayes Mansion property.

EVALUATION AND FOLLOW-UP

Should City Council approve the sale of the Hayes Mansion in the separate but related action, Staff will return to the City Council at a later date to recognize the final sale proceeds.

PUBLIC OUTREACH

Extensive public outreach was performed to develop the City Manager's 2008 General Fund Structural Deficit Elimination Plan. This Plan identified the Hayes Mansion as an under-performing City-owned asset that should be repositioned and returned to private ownership.

The bid solicitation for the lease of the underground portion of the Edenvale Garden Park parking facility was sent via email to a list of approximately 400 real estate brokers. The bid was also placed on the City's Bidsync.

This memorandum will be posted on the City's Council Agenda website for the June 26, 2018 Council Meeting.

COORDINATION

This memorandum was developed in coordination with the Department of Finance the Department of Parks, Recreation, and Neighborhood Services, the City Manager's Budget Office, and the City Attorney's Office.

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COMMISSION RECOMMENDATION/INPUT

The lease of the underground portion of the Edenvale Garden Park parking garage was not considered by a Commission.

FISCAL/POLICY ALIGNMENT

The lease of the Edenvale Garden Park parking garage facilitates the sale of the Hayes Mansion. The sale of the Hayes Mansion to an experienced hotelier aligns with City Council adopted policy to maintain and enhance Transit Oriented Tax revenues as well as generation of property tax revenues. Once the Hayes is sold to a private entity, it will be placed on the tax roll.

COST SUMMARY/IMPLICATIONS

The costs to operate the Edenvale Garden Park parking garage is the obligation of Dolce, the current operator of the Hayes Mansion from revenues of the operation of the Hotel; but does not include capital rehabilitation of the Hotel. With the execution of this lease, both operating and capital costs become the responsibility of JMA Ventures.

CEQA

Exempt, Section 15301 Existing Facilities, File No. PP16-016.

/s/

KIM WALESH

Deputy City Manager

Director of Economic Development

For questions please contact Nanci Klein, Assistant Director of Economic Development, at (408) 535-8184.