



Legislation Text

File #: 19-0801, **Version:** 1

Recommendation to accept the transfer of real property at 1095 East Willow Street, Assessor Parcel Numbers 7212-009-903 and -908, also known as Sunnyside Cemetery (Subject Property);

Accept the transfer of unrestricted funds associated with the Subject Property (estimated at \$540,000);

Authorize City Manager, or designee, to execute any and all documents necessary to effectuate the transfer, including the assumption of all contracts related to plots and burials; and

Accept Categorical Exemption CE-19-204. (District 7)

Established in 1906, Sunnyside Cemetery, at 1095 East Willow Street (Subject Property) (Attachment A), is the second oldest burial ground in the City of Long Beach (City). The Subject Property measures approximately 13 acres and is the final resting place to about 16,000 people, including former Union soldiers, Japanese Americans who suffered internment during World War II, and several pioneering Long Beach figures, including former City Mayor and Farmers & Merchants Bank founder C.J. Walker and the City's first Fire Chief Joseph Shrewsbury. The Subject Property was designated a historic landmark by the City in 2000 and the Friends of Sunnyside, acting as the Cemetery Board (Board) has furthered its mission to celebrate the lives, history, and legacy of Long Beach; and, to help descendants honor their ancestors' rich heritage through partnerships with local nonprofit organizations and by hosting cultural-historical events for the Long Beach community. The Subject Property continues to offer an opportunity for visitors to learn about the history of the City and its founders.

The Board, a private nonprofit organization registered in the State of California, has licensed, operated, and maintained the Subject Property as a private historic cemetery for 19 years. In recent years, declining revenue resulting from the lack of space to sell new burial plots and the increasing cost for maintaining aging infrastructure, necessitated the Board to consider a different management model for the Subject Property. Over a period of two years, representatives of the Board and City met regularly to develop a more sustainable approach to preserving this community asset but could not reach agreement on the cost, structure, and oversight of the Subject Property. City staff from the Economic Development Department assisted the Board with writing and submitting a grant application to implement one-time infrastructure improvements, but the application was ultimately withdrawn by the Board. In 2019, the Board publicly reported that it was unable to continue maintaining the Subject

Property as a private cemetery and that permanent closure was imminent. City staff met with representatives of the Board to discuss options to keep the Subject Property open to the public and, on June 27, 2019, the City received formal notification of the official Board action to: (a) transfer title to the Subject Property to the City; (b) change the status from a private cemetery to a public (municipal) cemetery with the State of California; and, (c) work with State regulatory agencies to transfer the endowment fund to the City for restricted ongoing cemetery uses.

Potential Obligations and Liabilities

There are no outstanding liens on the Subject Property and the Board is offering an unconditional transfer of the 13-acre property. However, there are a number of potential one-time and ongoing obligations and liabilities. The potential obligations and liabilities include the ongoing operating and maintenance costs, obligations associated with existing contracts, one-time capital improvements, and legal requirements of the transfer process.

Due to the timing of the potential closure, City staff have not been able to complete a full assessment and cost estimate of these obligations at this time. City staff from the Parks, Recreation and Marine (PRM), Public Works (PW), Water (WA), and Economic Development (ED) Departments have begun investigating the legal process for converting a private cemetery, engaging several third-party engineering experts to conduct needs assessments, and exploring models and structures for operating and funding this type of asset.

Based on the preliminary review and estimates, as will be described in more detail below, the potential obligations may result in an additional approximately \$230,000 per year in ongoing operating liabilities, and approximately \$1.0 million to \$1.5 million in initial costs for capital improvements to address basic public access and safety issues, but the cost estimates are preliminary and there is no assurance these will be the maximum costs. No estimate has been able to be made for other critical costs such as landscaping improvements, structure improvements, and improved public services.

Ongoing Operation and Maintenance

Currently, PRM maintains the adjacent four-acre municipal cemetery through its landscape contractor and provides a very limited level of customer service. The City no longer provides new burials but has the capability, through its contractors, to address issues as needed. There are no onsite staff budgeted for the municipal cemetery and requests for information or for historic records for the municipal cemetery are maintained by PW at City Hall. The current annual operating budget for the municipal four-acre cemetery is approximately \$60,000 and is budgeted in PRM in the General Fund Group.

The 13-acre Subject Property is much larger, and includes an estimated 16,000 gravesites, multiple aging structures, and significant deterioration to the landscape, equipment, and utilities. It is also reported that there are thousands of historic records that need to be

catalogued and organized to meet both historic and future demand for information from the public.

While the City is still seeking bids from its contractor to incorporate the additional acreage of the Subject Property, there are a number of concerns relative to the degraded landscape, soil stability, gopher control, tree failure, and irrigation systems that will likely increase the cost for the much larger and more complex area of the combined site.

At this time, City staff are roughly estimating the cost for the additional maintenance to be \$180,000, for a total of \$240,000 for the combined site. Additionally, given the much greater number of gravesites, interest, and day-to-day visitation of the historic cemetery, City staff recommend the addition of a full-time staff receptionist to provide security, oversight, scheduling of special events, referrals, requests for information, records management, and customer service, at an annual cost of \$50,000, not including one-time start-up costs for the administration.

The preliminary estimate for ongoing operations, maintenance, and staffing of the combined cemetery site is \$290,000 per year, an increase of \$230,000 from the \$60,000 currently spent (budgeted) for the Municipal Cemetery. This does not include ongoing costs to maintain gravesites and structures. To offset a portion of the fiscal impact of these ongoing costs, City staff have been in discussions with the County of Los Angeles Local Agency Formation Commission (LAFCo), which oversees the formation of special districts such as cemetery districts within the County. A description of the cemetery district formation process and potential benefits is described below in more detail.

Contractual Obligations

Although the Board has acted to grant the Subject Property to the City without conditions, the Board has requested the City Council to recognize obligations that provide a benefit to the public and members of the public that have contracts with the historic cemetery. While there are no outstanding liens on the Subject Property, these contractual obligations include allowing:

- Private burials to continue for individuals with deeds on file;
- The Long Beach Historical Society to hold its annual Historical Cemetery Tour in October 2019;
- The Long Beach Opera to host an event at the Cemetery in May 2020; and,
- The Historical Society to complete the work associated with the Navy Historical Society grant to preserve cemetery records.

To assist with meeting these obligations, the Board has agreed to transfer to the City all records associated with the Subject Property, including agreements for future burials. Although the Board is unable to confirm the total number of outstanding burials at this time,

recent history indicates that the City should be prepared to coordinate an average of two burials per year over the next 10-15 years. If the City Council agrees to accept these obligations, the City will assume these agreements and the contractual responsibility to coordinate burials as needed. Currently, the PRM and PW Departments have staff who facilitate the records and burials at the adjacent municipal cemetery and have agreed to incorporate these activities into their current duties. The total cost for burials is unknown but are expected to be charged to the individual, family member, or entity providing evidence of the burial claim. To assist with more effective records management, City staff are requesting the acquisition of a digital records management system to organize and preserve these historic records. City staff are seeking proposals to establish the cost to implement a new information management system and it is roughly estimated that the above costs of \$230,000 per year for operating, maintaining, and staffing of Subject Property may be sufficient to cover the costs of these contractual obligations. Additionally, it is possible that grant funds and the one-time transfer of Cemetery Endowment funds may be utilized to procure management software specifically designed for oversight and care of cemeteries.

One-time Conversion and Capital Replacement

In addition to the ongoing operating liabilities and the contractual obligations listed above, there are significant issues associated with the one-time structural stabilization, landscape conversion, utility infrastructure, building repair, and capital replacement at the Subject Property. While the detailed assessments by several outside engineering and other subject matter experts have only just begun, City staff have estimated the initial costs to provide for basic public access and safety may range from \$1.0 million to \$1.5 million. This estimate does not include costs for any potential conversion or replacement of the existing landscape, upgrading utility systems or structures, or providing features, services, or amenities for visitors. Also, this estimate does not include the potential costs or claims for replacement of historic features such as the headstones, caskets, or other private property related to the cemetery.

In the coming months, staff from PRM and PW will work with subject matter experts to complete the capital needs assessment, develop a budget and project timeline, and bring back to the City Council recommendations for review and approval as available. It is likely that these capital improvement projects will occur in a number of phases over a number of years, starting with the critical improvements that impact public safety and access to the Subject Property. To offset the fiscal impacts of these one-time capital improvements to address basic safety and security of the Subject Property, City staff will recommend the use of the Cemetery Endowment fund and will seek one-time grant funds, private donations, or sponsorships as available.

Cemetery Transfer Process

The transfer and the conversion of the historic cemetery and associated funds are regulated

by the licensing requirements of the State of California Department of Consumer Affairs, Cemetery and Funeral Bureau (Bureau). It is important to recognize the legal process and responsibilities associated with the acceptance and conversion of a private cemetery in the State of California. Although there are no specific costs, fees, or licensing requirements for municipal cemeteries, there is significant staff work associated with due diligence and administration of this process.

As a private cemetery, the Board is required by the State to maintain a current cemetery license and to conduct an annual financial audit performed by a certified accountant. On July 8, 2019, the Bureau confirmed with City staff that it had received the “2018 Endowment Care Fund” and “Special Care Fund Report for Sunnyside Cemetery,” and that the Board was current with regard to its reporting requirements; and, that no additional documents were needed until after the formal transfer of the Subject Property and associated assets to the City was complete. Once the transaction is complete between the City and the Board, the Bureau indicated that it will record both a copy of the property transfer documents and record final report of assets transferred to the City. In addition, the Board will return to the Bureau, the original and all renewal licenses issued to Sunnyside Cemetery.

Once these steps have been completed, the license to operate a private cemetery will be canceled and the City will begin to operate and maintain the Subject Property under the same rules and regulations that pertain to the neighboring four-acre Long Beach Municipal Cemetery; and, the funds from the Sunnyside Cemetery endowment will be available to assist with the cost to maintain the Subject Property. There is no direct fiscal impact or financial cost to process this transfer with the State; however, it is estimated that significant staff time from the City Attorney, Economic Development, and Parks, Recreation and Marine will be required to administer the transfer process.

Other Potential Funding Sources

Although there is no assurance the City will be successful, the City would expect to have partners in these costs, including grants, and that capital costs would be incurred over time.

Another important resource for potential funding of cemeteries in Los Angeles County is the creation of a cemetery assessment district. Cemetery assessment districts are independent special districts that manage cemeteries pursuant to the Public Cemetery District Law (Health and Safety Code Section 9000 et seq). Currently, there are five cemetery assessment districts in Los Angeles County (Antelope Valley, Artesia, Downey, Harbor Area, and Little Lake). The districts are generally managed by a three-member or five-member board of directors, elected by the people (and/or appointed in an “in-lieu” appointment process by the Los Angeles County Board of Supervisors). All five of the cemetery assessment districts in Los Angeles County receive a very small percentage (1 percent) of the ad valorem property taxes. For cemetery assessment districts, this income generally ranges about 33 percent to 90 percent of all district revenues, and the actual amount of property taxes received is as much as \$500,000 per year.

A cemetery assessment district may be an option to provide revenue to offset operating and maintenance costs that would grow over time. Formation of a cemetery assessment district in the City would require approval of the voters within the benefit assessment area. Although City staff are not recommending the formation of a cemetery assessment district as part of this action, additional research and analysis will be completed and may lead to a future standalone recommendation for consideration by the City Council.

The Port of Long Beach previously offered \$250,000 in assistance and staff will be following up on that offer. Staff also applied for an RMC grant for Willow Springs that could create integrated walking trails, and have been in discussions with the Water Department on drought-tolerant conversion for both sites.

Recommendation

As the Board has announce the eminent closure of Sunnyside Cemetery, the City has no other option but to step in to preserve this historic site. Notwithstanding that the costs are likely significant and the availability of partners and grants to defray the costs are uncertain, the benefits of preserving the City's unique history for current and future generations is considered by City staff to justify the potential costs. The costs associated with full restoration and potential for the site will be realized over a number of years, probably based on partner participation and grants. The immediate focus and costs will be associated with stabilizing the infrastructure, preventing further deterioration, and keeping the Subject Property open to the public.

If approved by the City Council, this recommendation will allow the City Manager and staff to proceed with immediately executing an agreement for the transfer of the Subject Property and associated resources from the current private nonprofit Board to the City. The City will accept both the assets and the liabilities described in this letter. The City will then further develop the plan for preserving, improving, operating, and maintaining the historic site as an asset of the City. As part of this action, City staff will continue to research potential funding sources for both ongoing and one-time costs such as the formation of a cemetery assessment district or the application for grants and will bring back to the City Council these recommendations for approval as appropriate and partnership with other agencies. Staff will also explore the possibility of management of Sunnyside Cemetery by a new nonprofit in the future.

In conformance with the California Environmental Quality Act, Categorical Exemption CE 19-204 was issued for the proposed transaction on August 8, 2019 (Attachment B).

This matter was reviewed by Deputy City Attorney Richard F. Anthony on August 8, 2019 and by Finance Director John Gross on August 7, 2019.

City Council action is requested on August 20, 2019, to facilitate the transfer of the Subject

Property in a timely manner before the projected August 30, 2019 permanent closing date established by the Board.

Operating and one-time costs are summarized in the table below and described in more detail in the following paragraph (and in the Discussion).

Sunnyside Cemetery - City Preliminary Cost Estimates (in \$ millions)

Item	Cost	Comments
Operating Costs		
Operating Cost - landscape/administration	0.23	Only landscape and administration
Operating Cost - graves, structures, etc.	?	Unknown at this time and not immediate
One-time costs		
One-time - public access/safety	1.0 to 1.5	Initial one-time costs
One-time - structures, landscape, utility systems, amenities, , etc.	?	To be invested at a later time
Assessment/cost estimates	?	Being incurred now

As described in the Discussion, a complete evaluation and cost estimates could not be done in the timeframe required for this letter. PRM roughly estimates that unbudgeted operating costs for the Subject Property at \$230,000, not including headstones and similar structural costs. The initial cost to provide for basic public access and safety may range from \$1.0 million to \$1.5 million. The cost for conversion or replacement of the existing landscape, upgrading utility systems, or the physical structures or headstone markers, etc., or providing features, services, or amenities for visitors is not included in these estimates and cannot be projected in this timeframe. Some cost factors can only be determined once the City has gained experience maintaining the Subject Property, and the estimates are subject to change based on that experience. There are also professional services costs currently being incurred to better estimate some one-time costs. That work should be done by the end of the year and is expected to support fundraising, sponsorship, and grant application opportunities. The cost of providing the assessment and cost estimates is currently unknown.

As discussed earlier, sources to potentially offset the one-time and operating costs include:

- Grants for historical, cultural, and open space preservation (staff is pursuing);
- Former Sunnyside Cemetery endowment to conduct the property assessments and develop cost estimates;
- Potential revenue from new services, activities, and program fees (a number of years in the future);

- Special Assessment District;
- Other Partners; and,
- General Fund - possibly absorbed in PRM's maintenance budget.

Other than the Sunnyside Cemetery endowment, there is no assurance that these other sources of revenue/cost offset will be available.

The acquisition of the Subject Property has significant non-monetary benefits. However, it also is expected to have significant ongoing operating costs and substantial capital costs, some of which do not currently have estimates. In acquiring the Subject Property, the City will be taking on significant financial unknowns and if costs cannot be delayed until, and if, new revenues are available, some existing City programs, potentially park maintenance, may be adversely impacted. The staff time involved in the transfer and assessment is estimated to be significant and is expected to have some impact on delaying other City Council priorities.

Approve recommendation.

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APPROVED:

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