



FAIRFAX TOWN COUNCIL MEETING

STAFF REPORT

MEETING DATE September 4, 2024

PREPARED FOR Mayor and Town Council

PREPARED BY Heather Abrams, Town Manager and Janet Coleson, Town Attorney

SUBJECT Adopt a Resolution to Accept an Assignment from Marin Open Space Trust (“MOST”) of All Rights, Duties and Obligations Under a Purchase and Sale Agreement Between MOST and the Owner of the Vacant Property Commonly Known as the Wall Property (“Property”) in Order to Preserve the Property as Permanent Open Space; Authorize the Town Manager to Provide \$100,000 in Town Measure “A” funds to MOST for Purchase of the Property and Execute a Deed Restriction in Favor of the County of Marin Open Space District in recognition of the County’s grant of \$1 million in County Measure “A” Funds for Acquisition of the Property; and Authorize the Town Manager and/or Mayor to accept \$500,000 from MOST for the maintenance and rehabilitation of the Property; Authorize the Town Manager to Obtain and Pay for a Title Insurance Policy on the Property and Pay One-half of the Closing Costs for Acquisition of the Property; and Authorize the Town Manager and/or Mayor to Execute Any Other Necessary Document(s) Required and/or Perform Additional Steps Necessary to Complete the Acquisition of the Property

RECOMMENDATION

Adopt a Resolution to:

1. Authorize the Mayor to accept and execute an assignment from Marin Open Space Trust (“MOST”) for all rights, duties and obligations under a Purchase and Sale Agreement between MOST and the owner of the vacant real property commonly known as the Wall Property (“Property”) Assessor Parcel Numbers (“APNs”) 001-251-31, 001-150-12, 001-160-09, and 001-171-51; and
2. Authorize the Town Manager to provide \$100,000 (one hundred thousand dollars) of Town of Fairfax Measure “A” funds to MOST for purchase of the Property; and
3. Authorize the Town Manager to execute a deed restriction in favor of the County of Marin Open Space District in recognition of the County’s authorization and provision of \$1 million in County Measure “A” funds for acquisition of the Property; and
4. Authorize the Town Manager and/or Mayor to Accept a \$500,000 donation from MOST through escrow for maintenance and rehabilitation of the Property; and
5. Authorize the Town Manager to obtain and pay for a Title Insurance Policy on the Property and pay one-half of the closing costs for acquisition of the Property; and
6. Authorize Town Manager and/or Mayor to execute any other necessary documents(s) required and/or perform additional steps necessary to complete the acquisition of the Property.

EXECUTIVE SUMMARY

The proposed Council actions are needed to close escrow on the 100 acres of open space property commonly known as the Wall Property. Once the escrow closes, the Town will own the property, and the 100 acres will be preserved in perpetuity as open space for public use. The Town plans to conduct a ribbon cutting ceremony, which is tentatively scheduled for October 14. More information about the celebration will be distributed via the [Town Newsletter](#).

BACKGROUND

The 100-acre area, commonly known as the Wall Property, has long been a significant property in Fairfax. Last year, an opportunity became available for acquisition by the Town for the protection, restoration, and enhancement of natural resources, wildlife habitat, open space, California Native American tribal cultural resources, and compatible public access.

Acquisition Milestones

- [September 6, 2023](#): Town Council formed a subcommittee of the then Mayor and Vice Mayor to explore the Property purchase with MOST.
- [April 3, 2024](#): Town Council authorized the Mayor to send a letter to the Coastal Conservancy regarding potential Grant Funds.
- [May 22, 2024](#): Town Council considered and approved a Memorandum of Understanding (MOU) between the Town of Fairfax and Marin Open Space Trust (MOST) regarding the acquisition of the Property
- [June 6, 2024](#): California Coastal Conservancy approved \$500,000 grant to the Town of Fairfax to acquire the Property
- [August 7, 2024](#): Town approved Maintenance Agreement with County of Marin
- August 20, 2024: County of Marin approved \$1 million Measure A acquisition funds
 - [CB-6a - Staff Report](#)
 - [CB-6a - Agreement](#)
- August 20, 2024: Marin County Open Space District approved Wall Property Maintenance Agreement.
 - [15d - Staff Report](#)
 - [15d - Agreement](#)
 - [15d - Attachment](#)

DISCUSSION

The proposed Council actions are needed to close escrow on the 100 acres of open space commonly known as the Wall Property. Once the escrow closes, the Town will own the property and the 100 acres will be preserved in perpetuity as open space for public use.

Authorizing the Mayor to execute an assignment from MOST to the Town of the rights, duties and obligations under the purchase and sale agreement for the Property will allow the Town to permanently preserve the Property as public open space. MOST has completed a \$2.9 million fundraising effort in order to purchase the property and transfer ownership to the Town for open space. MOST does fundraising for open space acquisition throughout Marin County, but MOST doesn't hold open space properties. Owning open space is typically the responsibility of a public agency. Many agency partners and individuals have contributed to the fundraising effort, including the Fairfax Open Space Committee (FOSC), Marin County Open Space District through Measure "A" funding, State Coastal Conservancy, the Town of San Anselmo, the Town of Fairfax and over 200 individuals contributed, with nearly half of the funds raised coming from personal donations. \$2.3 million was needed to purchase the property, and \$500,000 was needed to provide for immediate maintenance and rehabilitation of the property.

Included in the \$2.9 million raised, is a contribution of \$100,000 of the Town's Measure "A" funds that have been saved for land acquisition, as requested by FOSC (Shown in Town Budget FY 24-25 Fund 23-715 shown as work plan item 73-673). No Town Committee has budget authority on its own and the Council must authorize the Town Manager to make the expenditure, thus the recommended action item: Authorize Town Manager to provide \$100,000 in Town Measure "A" funds to MOST for purchase of the Property.

In addition to providing the balance of the funds necessary to close the escrow, MOST will be providing a \$500,000 stewardship fund to the Town. The MOU states that this donation will be accomplished through escrow. MOST will transfer to the Town and the Town will accept \$500,000 from MOST for maintenance and rehabilitation of the property. Maintenance and rehabilitation project costs were estimated by Millier Pacific Engineering, the Town's engineering firm, and staff expects to bring competitive bids to the Council for award in the next year. The Town will separately account for this \$500,000 through creation of a separate project in Capital Improvement Projects (CIP – Grants) Fund 51.

Title insurance is recommended for this transaction, and it is offered by Fidelity, which MOST selected to handle the escrow. The estimated cost, which will be borne by the Town for title insurance, is approximately \$4,612. Additionally, MOST and the Town will split the escrow fee of \$1,437.50 and closing expenses.

The Town intends to preserve the Property as public open space in perpetuity, and several of the acquisition funding sources also require confirmation of this. Through discussion with multiple agencies and their legal staff, it has been determined that the County of Marin's deed restrictions to keep the property as open space will have primacy, thus the recommended actions include that the Council authorize the Town Manager to sign a Deed Restriction with the County of Marin.

The Town plans to conduct a ribbon cutting ceremony, which is tentatively scheduled for October 14. More information about the celebration will be distributed via the Town Newsletter.

FISCAL IMPACT

The recommended actions in this staff report will preserve the 100 acres commonly known as the Wall Property as permanent public open space. The Town will expend direct costs of \$100,000 in Town Budget FY 24-25 Fund 23-715, plus less than \$6,000 for title insurance and closing costs. The Town will accept from MOST \$500,000 to be used for immediate maintenance and rehabilitation of the Property. As agreed earlier, on-going maintenance of the two major trails on the property will be done at no cost to the Town by County of Marin Parks. No other capital improvement, such as interpretive center or other items, are envisioned for the property, and it will be deed restricted as open space.

ATTACHMENTS

Resolution

RESOLUTION NO. 24-__

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AUTHORIZING ACCEPTANCE OF AN ASSIGNMENT FROM THE MARIN OPEN SPACE TRUST (MOST) OF ALL RIGHTS, DUTIES, AND OBLIGATIONS CONTAINED IN THE PURCHASE AND SALE AGREEMENT BETWEEN MOST AND THE OWNER OF THE VACANT REAL PROPERTY COMMONLY KNOWN AS THE WALL PROPERTY (ASSESSOR PARCEL NUMBERS (“APNs”) 001-251-31, 001-150-12, 001-160-09, and 001-171-51 (“PROPERTY”), AND AUTHORIZING THE MAYOR TO EXECUTE SUCH ASSIGNMENT, THEREBY APPROVING THE ACQUISITION BY THE TOWN OF THE PROPERTY FOR PRESERVATION AS PERMANENT OPEN SPACE; AND AUTHORIZING THE TOWN MANAGER TO PROVIDE \$100,000 OF TOWN MEASURE “A” FUNDS TO MOST FOR PURCHASE OF THE PROPERTY; AND AUTHORIZING THE TOWN MANAGER TO EXECUTE A DEED RESTRICTION IN FAVOR OF THE COUNTY OF MARIN OPEN SPACE DISTRICT IN RECOGNITION OF THE COUNTY’S AUTHORIZATION AND PROVISION OF \$1 MILLION IN COUNTY MEASURE “A” FUNDS FOR ACQUISITION OF THE PROPERTY; AND AUTHORIZING THE MAYOR AND/OR THE TOWN MANAGER TO ACCEPT \$500,000 FROM MOST FOR THE MAINTENANCE AND REHABILITATION OF THE PROPERTY; AND AUTHORIZING THE MAYOR AND/OR TOWN MANAGER TO EXECUTE ANY OTHER NECESSARY DOCUMENT(S) REQUIRED TO COMPLETE THE ACQUISITION OF THE PROPERTY

WHEREAS, Council appointed a Subcommittee on August 29, 2023, to explore the preservation of 100 acres of vacant property in Town of Fairfax, Assessor’s Parcel Numbers (APNs) 001-251-31, 001-150-12, 001-160-09, and 001-171-51, commonly known as the Wall Property (“Property”) as permanent open space; and

WHEREAS, On September 6, 2023, the Town Council authorized then Mayor Cutrano and then Vice Mayor Coler to negotiate and execute an agreement with the Marin Open Space Trust (MOST) regarding the exploration and possible purchase for open space of the 100-acre Property; and

WHEREAS, Council met in closed session on January 24, 2024, April 3, 2024, May 8, 2024, and May 16, 2024 regarding the price and terms of the property; and

WHEREAS, On May 22, 2024, Council approved the Memorandum of Understanding (MOU) Between the Town of Fairfax and the Marin Open Space Trust (MOST) Regarding the Acquisition of the Wall Property and Authorized the Mayor to sign the MOU; and

WHEREAS, MOST has been conducting a fund-raising campaign and has successfully raised private funds toward the \$2.3 million purchase price; and

WHEREAS, On July 23, 2024, the Town Council of the Town of San Anselmo approved providing \$12,000 (twelve thousand dollars) to MOST for acquisition of the Property; and

WHEREAS, a grant application was submitted to the California Coastal Conservancy for funds to aid in the acquisition and preservation of the property as open space; and

WHEREAS, On June 6, 2024, the Coastal Conservancy awarded \$500,000 to be used for the acquisition and preservation of the Wall Property; and

WHEREAS, On August 20, 2024, the County of Marin Open Space District approved \$1 million in County Measure “A” funds for acquisition of the Property and approved a maintenance agreement with the Town for the Property.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

- 1) The Mayor of Fairfax is hereby authorized to accept an Assignment from MOST of all rights, duties, and obligations contained in the Purchase and Sale Agreement between MOST and the owner of the vacant real property commonly known as the Wall Property ("Property"), (APNs 001-251-31, 001-150-12, 001-160-09, and 001-171-51) and execute such assignment; and
- 2) the Town Manager is hereby authorized to provide \$100,000 (one hundred thousand dollars) of Town of Fairfax Measure "A" funds to MOST for purchase of the Property; and
- 3) the Town Manager is hereby authorized to execute a deed restriction in favor of the County of Marin Open Space District in recognition of the County's authorization and provision of \$1 million in County of Marin Measure "A" funds for acquisition of the Property; and
- 4) the Town Manager and/or the Mayor are hereby authorized to accept \$500,000 (five hundred thousand dollars) from MOST for the maintenance and rehabilitation of the Property; and
- 5) the Town Manager is hereby authorized to obtain and pay for a Title Insurance Policy on the Property and pay one-half of the closing costs for acquisition of the Property; and
- 6) the Town Manager and/or Mayor are hereby authorized to execute any other necessary document(s) required and/or perform additional steps necessary to complete the acquisition of the Property.

ADOPTED ON September 4, 2024.

ATTEST:

BARBARA COLER
MAYOR

CHRISTINE FOSTER
DEPUTY TOWN CLERK

I, Christine Foster, Deputy Town Clerk of the Town of Fairfax, hereby certify that Resolution No. 24-XX is a full, true, and correct copy, and was duly adopted at a meeting of the Town Council of the Town of Fairfax on Wednesday, September 4, 2024, by the following vote:

AYES:

NOES:

ABSENT:

CHRISTINE FOSTER
DEPUTY TOWN CLERK