



Staff Report

TO: City Council
FROM: Doug Story, Assistant Director of Community Services
DATE: January 18, 2022
SUBJECT: **Adoption of a Resolution Authorizing the City Manager to Accept the Offer of Dedication for Park Purposes and Approve a Park Dedication Agreement between the City of Beaumont and SDC Fairway Canyon, LLC, for Mickelson Park (APN 413-801-012)**

Background and Analysis:

Mickelson Park is a 6.68-acre community park located in Fairway Canyon on Mickelson Drive, west of Tukwet Canyon Parkway, Assessor Parcel Number (APN) 413-801-012. Amenities at this park include a restroom, playground with a zip line, pavilion and multi-use sports fields.

Construction of this new park was completed in June 2020 and has been maintained by the developer for the past year, in accordance with an agreement between the City and the developer.

In June of 2021, City staff met with representatives and conducted a site walk with the intent of creating a final punch list of items that needed to be addressed. Since then, all items on the punch list have been resolved. Additionally, the Health and Safety Code requires a playground safety inspection, which was conducted by the developer and a certification of compliance is on file with the City.

The final step in the acceptance of this park is an executed park dedication agreement, including notarized grant deeds, and a resolution of the City Council authorizing the City Manager to accept the offer of dedication for park purposes. Government Code Section 27281 provides that instruments conveying an interest in real property to the City may not be recorded without a certificate of acceptance approved by the City Council. Furthermore, it provides that the City Council may, by a resolution, authorize one or more officers to accept instruments conveying an interest in real property by executing a certificate of acceptance, such as the City Manager.

One issue that was brought to light during this acceptance process was the fact that Lot 149, APN 413-801-012 was not exempt in the Covenants, Conditions, and Restrictions (CC&Rs) from Homeowner Association (HOA) monthly assessments and or the ability of the HOA to assess fines regarding maintenance or landscaping violations. When this discovery was brought to the attention of the City Attorney's office the recommendation was to have the developer amend the CC&Rs to exempt Lot 149. The developer has indicated that amending the CC&Rs is extremely difficult and the likelihood of receiving enough votes to do so would be highly unlikely. To amend the CC&Rs would require more that 50% of the homeowners to submit votes and the HOA does not feel they would receive enough of the required participation from homeowners for the vote to take place. The current HOA board did provide a non-binding notarized letter indicating their intent to not assess any monthly dues pertaining to Lot 149 and they would exempt the park from maintenance and landscape rules.

Staff is recommending that the acceptance of the park moves forward. This acceptance will add the fourth community park within the Fairway Canyon development that the City will be responsible for maintenance and upkeep.

Attached is a resolution authorizing the City Manager to accept the offers of dedication for park purposes (Attachment A).

Fiscal Impact:

Funding to maintain this park is included in the current budget. Under Government Code Sections 6103 and 27383, the City of Beaumont is exempt from paying recordation fees to record the certificates of acceptance. City staff estimates the cost to prepare this staff report to be \$4,900.

Recommended Action:

Waive the full reading and adopt by title only, "A Resolution of the City of Beaumont Authorizing the City Manager to Accept the Offers of Dedication for Park Purposes,"

Authorize City staff to record the certificate of acceptance of an interest in real property by the City of Beaumont, and

Authorize a Park Dedication Agreement between the City of Beaumont and SDC Fairway Canyon, LLC, for Mickelson Park (APN 413-801-012) and authorize the City Manager to execute the agreement on behalf of the City of Beaumont.

Attachments:

- A. Resolution
- B. Park Dedication Agreement
- C. Certificate of Acceptance
- D. HOA Notarized Exempt Letter