



STAFF REPORT
12/14/2022

TO: Honorable Mayor and City Council Members

FROM: Carlos Campos, City Attorney

SUBJECT: Resolution No. 2022-89, A Resolution of Necessity for the Acquisition of Fee Interest in Certain Real Property, by Eminent Domain, Located on the north side of 52nd Avenue, one lot west of Hernandez Street in the City of Coachella, More Particularly Described as Assessor Parcel No. 763-412-040, In Riverside County, California, for the Central Park Project, in Riverside County, California.

STAFF RECOMMENDATION:

This item is for the City Council of Coachella to:

- 1) Conduct a hearing to consider the adoption of a resolution of necessity, including providing all parties interested in the affected property and their attorneys, or their representatives, an opportunity to be heard on the issues relevant to the resolutions of necessity;
- 2) Make the following findings as hereinafter described in this report:
 - a) The public interest and necessity require the proposed project;
 - b) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - c) The real property to be acquired is necessary for the project;
 - d) The offer of just compensation has been made to the owner; and
- 3) Adopt Resolution of Necessity No. 2022-89 for the Acquisition of Fee Interest in Certain Real Property, by Eminent Domain, Located on the north side of 52nd Avenue, one lot west of Hernandez Street in the City of Coachella, More Particularly Described as Assessor Parcel No. 763-412-040, In Riverside County, California, for the Central Park Project, in Riverside County, California, California as Further Identified In Exhibit A Attached Hereto.

BACKGROUND:

On November 6, 2018, the California voters approved Proposition 68, which created a grant program to fund the creation or renovation of parks in California. The grant is administered by the California Department of Parks and Recreation (CDP&R). An applicant will be considered for the grant if they satisfy two major requirements. The applicant must have a ratio of less than 3 acres of park space per 1,000 residents (lack park space) and a median household income lower than

\$56,982 (significant poverty). Based on review utilizing the CDP&R Community Factfinder (a tool used to determine eligibility), the City satisfies the requirements to submit an application to build a new park, Central Park, on Avenue 52 between La Ponderosa Drive and Hernandez Street.

On March 3, 2021, the City of Coachella submitted a grant application under this program in a not-to-exceed amount of \$8.5 million dollars to build Central Park. Furthermore, as part of the application process, the City will include in its application the feedback received from the community meetings, designs created by the community, community survey results and testimonials.

On September 8, 2021, the City of Coachella was \$8,454,600 for the new Central Park project. The funds are awarded through the Statewide Park Development and Community Revitalization Grant Program (Round 4). During this round, 112 projects were awarded \$548.3 million in grant funding to create local new parks and revitalize existing parks in more than 100 communities.

DISCUSSION/ANALYSIS:

The City Council is being asked to consider the adoption of a resolution of necessity for the interest in the parcel listed below. This interest is required for the City of Coachella's ("City") Central Park Project ("Project"). The Project will construct Central Park, a 4.7 acre-park featuring an inclusive playground with shade, a splash pad, a multi-purpose pavilion with restrooms, a walking path, botanical/community garden, a multi-purpose court, a fitness area with shade, three picnic areas with shade and BBQ pits, a multi-use field, perimeter fencing, with lighting and landscaping throughout the park.

The City obtained an appraisal of the affected property from Michael Scarcella, MAI, of Capital Realty Analysts and made an offer of just compensation to the property owner pursuant to California Government Code section 7267.2. Property profiles from First American Title and Data Tree were ordered to determine the identity of the record owner. Following standard public records and due diligence searches for ownership information, a notice of this public hearing was mailed to the property owner.

The power of eminent domain is used by the City only as a last resort to obtain interests necessary for projects after 1) negotiations have stalled; or 2) the owner has requested that the City proceed directly to eminent domain for tax or other advantages; or 3) the eminent domain process is necessary to clear the title to the property. In this case, an offer of just compensation has been made to the owners for the full Fair Market Value as determined by the appraisal. City staff attempted to negotiate a voluntary acquisition in good faith, and will continue to do so throughout the process. California's definition of Fair Market Value is one of the most inclusive definitions in the United States and requires the appraiser to consider the highest and best use of the property and the appraiser to consider the highest price a willing buyer and seller would agree to. The City's appraisals must use this definition of Fair Market Value.

California eminent domain law provides that a public entity may not commence with eminent domain proceedings until its governing body has adopted a Resolution of Necessity, which may only be adopted after the governing body has given each party with an interest in the affected

property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

- 1) The public interest and necessity require the proposed project;
- 2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
- 3) The real property to be acquired is necessary for the project; and
- 4) The offers of just compensation have been made to the property owner.

Since an agreement has not been reached with the owner of the parcel, acquisition by eminent domain is the City's last option. The initiation of the eminent domain process is accomplished by the City's adoption of a resolution of necessity for the affected property.

The record owner must be afforded an opportunity to appear at the hearing and lodge objections. A notice of this public hearing was sent by first class mail on September 26, 2022 to each record owner in accordance with Section 1245.235 of the California Code of Civil Procedure. The notice stated the City's intent to consider the adoption of a resolution, the right of the property owner to appear and be heard on these issues, and that failure to file a written request to appear would result in a waiver of the right to appear and be heard. The City scheduled this hearing at which all persons who filed a written request in compliance with applicable law may appear and be heard.

DESCRIPTION OF PROPERTY TO BE ACQUIRED:

The subject property is 4.77 gross acres of vacant land on the north side of 52nd Avenue, one lot west of Hernandez Street, in the City of Coachella, Riverside County, California, and is most commonly identified as Assessor Parcel No. 763-412-040 ("Property").

The proposed acquisition consists of a fee simple interest. The site is vacant of improvements except for the large power transmission poles located within the southerly 110 feet of the parcel. There are four (4) poles in the southeast corner of the property, located approximately 65 feet west of the east parcel line and about 20 feet north of the south property line. Additionally, the Property is encumbered by a pipeline easement. The location of the overhead power pole line easements and pipeline easement are such that suitability for independent current development of the Subject Property is impaired.

The proposed acquisition consists of a full acquisition of the Property to construct Central Park. The legal definitions, descriptions and depictions are attached hereto as Exhibit 2.

HEARINGS AND REQUIRED FINDINGS:

The recommended action of the City Council pertains to the acquisition of a fee interest in certain real property known as Assessor Parcel No. 763-412-040 owned by Cesar Castaneda and Erika Flores Iniguez (collectively referred to as the "Property Owners").

The above four required findings are addressed as follows:

Finding 1: Public Interest and Necessity Require the Project

The Project and the acquisition of the Property will ensure the existence of a large public park, which consists of 4.7 acre-park featuring an inclusive playground with shade, a splash pad, a multi-purpose pavilion with restrooms, a walking path, botanical/community garden, a multi-purpose court, a fitness area with shade, three picnic areas with shade and BBQ pits, a multi-use field, perimeter fencing, with lighting and landscaping throughout the park. The neighborhood of the Property currently does not have any park facilities.

Finding 2: The Project is Planned or Located in a Manner Most Compatible with Greatest Public Good and Least Private Injury

The 4.77 gross acre Property is currently unimproved and vacant, with the exception of the power poles and pipeline easement. These easements make development of the Property challenging. The City is able to acquire the Property with the encumbrances and either unencumber the land, or, develop the park around the encumbrances. There is not another parcel in the City suited to convert to a public park on such a large scale. Additionally, there has been lots of development around the Property. This Project will provide the citizens of Coachella with a centrally located park.

To move this project elsewhere would cause a greater impact in the new location as well as to nearby residents, and be much more costly at the expense of local taxpayers. Notification of street closures and alternate route alternatives, if any, will be provided in advance to all residents in close proximity of the project. All efforts will be made to pursue project completion as quickly as possible once work is begun.

Finding 3: The Real Property to be Acquired is Necessary for the Project

The Property is the only parcel in the City with the capacity for meeting the City's objectives for the construction of a new park. The Project will add a sizeable park to a parkless neighborhood and act as a trailhead, since it will be approximately 900 feet from CV Link.

Finding 4: The Offer of Just Compensation Has Been Made

Appropriate sources, including property profiles from First American Title and property research from Data Tree, were used to confirm and identify the parties with an interest in the property affected by the Project. Michael Scarcella, MAI, conducted an appraisal for the property and determined the fair market value of the property to be acquired. On July 28, 2022, the City made an offer of just compensation for the amount of \$290,000.00 to the property owners to purchase the fee interest in certain real property as established by the approved appraisal and as required by Section 7267.2 of the California Government Code. The Property Owner has not responded.

Although a negotiated settlement may still be possible for the real property cited above, it would be appropriate to commence the procedures to acquire the property through eminent domain, to ensure that the City has possession of the real property, which is necessary in

order for the City to begin construction of the Project.

ENVIRONMENTAL ANALYSIS:

The acquisition of a fee interest for a public park is exempt from environmental review under the California Environmental Quality Act (“CEQA”, Pub. Resources Code, § 21000 et seq.). Specifically, State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) section 15316 (transfer of ownership of land to create parks) exempts the acquisition of land in order to establish a park where the land is in a natural condition and a management plan for the park has not yet been prepared. The subject property is vacant except for the large power transmission poles located within the southerly 110 feet of the parcel. A review to determine environmental consistency with CEQA will be performed if a future management plan, land use changes, or physical improvements are proposed for the site. None of the exceptions to the categorical exemption listed above apply to the project. No further environmental review or findings are required prior to the City’s action on the proposed Resolution of Necessity.

FISCAL IMPACT:

The City’s associated acquisition cost is estimated to be \$390,000 (the appraised property value of \$290,000.00 plus legal fees of \$100,000). This action appropriates the specified costs in the City’s General Fund and authorizes related interfund transfers to the City’s CIP fund. If the purchase is concluded outside the eminent domain process, the purchase costs will be covered by the California Department of Parks and Recreation’s Statewide Park Development and Community Revitalization Program through Proposition 68 State of California Parks and Water Bond 2018 that Assembly member Eduardo Garcia (SB 5, 2017) authored.

ACTION REQUESTED BY THE CITY COUNCIL:

That the City Council adopt Resolution No. 2022-89, a Resolution of Necessity for the Acquisition of Fee Interest in Certain Real Property, by Eminent Domain, Located on the north side of 52nd Avenue, one lot west of Hernandez Street in the City of Coachella, More Particularly Described as Assessor Parcel No. 763-412-040, In Riverside County, California, for the Central Park Project, in Riverside County, California

ATTACHMENT(S):

1. Resolution No. 2022-89, A Resolution of Necessity for the Acquisition of Fee Interest in Certain Real Property, by Eminent Domain, Located on the north side of 52nd Avenue, one lot west of Hernandez Street in the City of Coachella, More Particularly Described as Assessor Parcel No. 763-412-040, In Riverside County, California, for the Central Park Project, in Riverside County, California.
2. Legal Definitions, Description and Map describing/depicting the Property to be acquired.