



Council Agenda Report

From: Ty Lewis, City Manager

Subject: Rescinding Resolution 16-141 Approving of an Agreement with the 16th District Agricultural Association for the Sale of a Portion of Pioneer Park Property (APN 008-254-002); Adopting Resolution XXX declaring the City's intent to sell an approximately 5.6 acre Portion of Pioneer Park Property (APN 008-254-002), Declaring the Property Exempt Surplus, and finding that this action is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (existing facilities)

Date: November 15, 2022

Facts

1. Pioneer Park is owned and operated by the City. The total acreage of publicly-owned park area is approximately 7 acres. The portion proposed for sale is 5.6 acres ("Property").
2. The 16th District Agricultural Association ("16th DAA") operates under the auspices of the California Department of Food and Agriculture, Division of Fairs and Expositions, for the primary purpose of producing the annual California Mid-State Fair (the "Fair").
3. The 16th DAA requested the City sell the Property to assist in achieving their then stated goals of expansion and reorientation of the grandstand arena and full demolition and remodel of the Paso Robles Pavilion (Livestock) buildings at the north end of the grounds. Acquisition of a portion of Pioneer Park would aid in achieving those goals by providing additional area for staging and operations that otherwise would have been required to fit within the remodel footprint.
4. In December 2015 and November 15, 2016, following negotiations with the 16th DAA representatives, the 16th DAA and the City approved a Purchase and Sale Agreement ("Original Agreement").
5. To proceed with the transaction the 16th DAA required State approval. In April 2022, the City received a revised agreement from State Department of General Services who had been reviewing the agreement for the State and the 16th DAA. The State drafted Property Acquisition Agreement ("PAA") had substantially different terms and conditions than the Agreement approved by the City in November 2016.
6. Since April 2022, the City, State, and 16th DAA have worked to resolve the differences over the terms of the proposed sale of the Property and on October 27, Mayor Martin, Councilmember Gregory, City Staff, DGS representatives, and 16th DAA representatives met to review the terms and conditions of the Agreement.
7. Although in a revised format, the City, State, and 16th DAA have come to terms on a PAA that is consistent with the terms of the Original Agreement.

Options

1. Take no action.
2. Take the following actions:
 - a. Approve the Resolution 22-XXX rescinding Resolution 16-141 approving the 2016 Purchase and Sale Agreement.
 - b. Approve Resolution 22-XXX declaring the City's Intention to Sale of an approximately 5.6 acre Portion of City-owned Property commonly known as Pioneer Park (APN 008-254-002) to the 16th DAA, Setting a Hearing Date for Consideration of Protests to the Property Sale (Portion of (APN 008-254-002), declaring the Property Exempt Surplus Land, and finding that this action is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (existing facilities).
3. Provide alternative direction to staff.

Recommendation:

Option 2: Rescind the previously approved Resolution and set the public hearing date for the consideration of a new agreement selling the Property to the 16th DAA, declaring the Property Exempt Surplus Land, and making certain CEQA findings.

Analysis and Conclusions

The City and the 16th DAA have been working cooperatively in an attempt to sell a portion of Pioneer Park to the 16th DAA since 2015. To conclude the transaction, it was necessary for the State to review the Agreement and facilitate certain approvals of the Agreement which had been negotiated by the City and representatives of the 16th DAA. On June 13, the City received an email from DGS indicating the Agreement could not be approved as anticipated by the City and the 16th DAA. DGS identified a number of non-substantive or administrative issues that needed to be addressed. DGS also identified a number of issues that, as a result of the 5 plus year delay in approval of the Agreement by DGS, were now substantive.

The Council reviewed DGS's objections to the transaction at the July 19, 2022 meeting. At that meeting representatives of 16th DAA requested additional time to negotiate revisions of the Agreement to address DGS's concerns and allow the transaction to proceed. Council agreed to delay action on terminating the Agreement and directed staff to meet with DGS and the 16th DAA and return to Council on November 1, 2022 with an update.

Staff and representatives of DGS have met numerous times over the past 90 days. Mayor Martin, Councilmember Gregory, City Staff, DGS, and representatives of the 16th DAA met again on October 27, 2022 and have come to a tentative agreement on deal terms to be presented to each of the approving agencies. On November 1, 2022 the Council reconsidered the rescission of the Original Agreement and directed staff to comply with all noticing requirements and other necessary actions for the Council to consider a new agreement with the 16th DAA based upon the recent discussions.

In light of the progress made, if the Council would like to proceed with the transaction, the next steps include rescinding the action previously taken by the Council on the 2016 Agreement, declare the property exempt surplus pursuant to Government Code Section 54220 et. seq., and notice a public hearing to allow the Council to consider the revised agreement.

Original Agreement Approval:

Resolution 16-141 approved by the Council in 2016 approved a Purchase and Sale Agreement to convey the Property to the 16th DAA. The State was unwilling to approve that Original Agreement as such Resolution 16-141 will be rescinded to clear any cloud on title and allow another transaction to proceed.

Surplus Land Act

In the five years since the City's approval of the Agreement there was a change in the Surplus Land Act (Gov't Code section 54220 et. seq.) ("SLA"). Based upon that change in law and the fact that the City and 16th DAA did not have a binding agreement for the sale of the Property, any current transaction is subject to the new provisions of the SLA. To comply with the SLA the City must either declare the property "surplus" and make it available to affordable housing developers and others as required by the SLA or declare it "exempt surplus" if the transaction falls within one of the enumerated exemptions to the SLA. One of the enumerated exemptions to the SLA is for a sale between governmental agencies. Specifically, Government Code Section 54221(f)(1)(D) provides that surplus land that a local agency is transferring to another local, state, or federal agency for the agency's use is exempt surplus and need not comply with the noticing and sales requirements to make the land available for development as affordable housing. As the City is selling the Property to the 16th DAA through the State the provisions of the SLA are satisfied, and the property is exempt surplus land which allows the City to proceed with the transaction.

Resolution of Intention for Sale of a Portion of City-owned Property

The City, State, and 16th DAA have negotiated the terms of the PAA and as negotiations are nearly complete, staff recommends the City Council declare the City's intent to sell the portion of City-owned property to the 16th DAA and set a public hearing date for consideration of the PAA.

The sale, or transfer, of City-owned land is governed by State regulations which provide that the legislative body make a finding that the public interest and convenience require the sale of public land and adopt a resolution giving notice of its intention to sell such property. The proposed resolution would satisfy this requirement and also set the date of the next Council meeting for consideration of the PAA and hearing of any protests to the property sale. Pending City Council approval of the Resolution of Intention, staff would return to the City Council at the December 6 meeting with a recommendation to complete the transaction via approval of the PAA.

Although not before the Council for action this evening, the basic terms of the proposed transaction include but are not limited to:

- Sales price: \$800,000
- Use Restriction requiring the property to be used to further the 16th DAA's mission.
- A right for the City to reacquire the Property if the 16th DAA attempts to convey the Property or fails to use it consistent with the Use Restriction
- City retains control of the site for three years following the close of escrow so the ballfield will remain available to the community.
- Release of liability for the City for conditions discovered following the close of escrow.

CEQA

This proposed sale of the Property has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq), and the City's Local CEQA Guidelines. As a result of that analysis, it has been determined that this transaction would not have a significant impact upon the environment and no further environmental documentation will be required, pursuant to Article 19, Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act. This determination was based upon the fact that the Property has been and will continue to be used as a public park/baseball field and for 16th DAA events as it has been for many years. Any future modification of use is unknowable at this time and therefore cannot be analyzed. If in the future the 16th DAA endeavors to expand or modify the use of the Property that action will be subject to all appropriate review, including CEQA, at that time.

Fiscal Impact

There is no fiscal impact from the actions this evening but, if the transaction as proposed is completed the City will receive \$800,000 for the General Fund

Recommendation

1. Approve the Resolution 22-XXX rescinding Resolution 16-141 approving the 2016 Purchase and Sale Agreement.
2. Approve Resolution 22-XXX declaring the City's Intention to Sale of an approximately 5.6 acre Portion of City-owned Property commonly known as Pioneer Park (APN 008-254-002) to the 16th DAA, Setting a Hearing Date for Consideration of Protests to the Property Sale (Portion of (APN 008-254-002), declaring the Property Exempt Surplus Land, and finding that this action is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (existing facilities).

Attachments

1. Resolution 22-XXXX rescinding Resolution 16-141
2. Resolution 22-XXX declaring the City intention to sell the property and making other findings

Attachment 1

RESOLUTION 22-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES

RESCINDING RESOLUTION 16-141 APPROVING A PURCHASE AND SALE AGREEMENT WITH THE 16TH DISTRICT AGRICULTURAL ASSOCIATION FOR THE ACQUISITION OF A PORTION OF PIONEER PARK

WHEREAS, Pioneer Park is owned and operated by the City. The total acreage of publicly-owned park area is approximately 7 acres. The portion proposed for sale is 5.6 acres (“Property”); and

WHEREAS, in 2015, the 16th District Agricultural Association (“16th DAA”) requested the City sell the Property to assist in achieving their goals of expansion and reorientation of the grandstand arena and full demolition and remodel of the Paso Robles Pavilion (Livestock) buildings at the north end of the grounds; and

WHEREAS, on December 15, 2015, the DAA Board unanimously approved the purchase of the Property on the terms and conditions contained in the Agreement that had been negotiated between the City and the 16th DAA; and

WHEREAS, on November 15, 2016, following negotiations with the 16th DAA representatives, the City approved, by Resolution 16-141, a Purchase and Sale Agreement (the “Agreement”) which, among other terms and conditions for the sale, provided for a purchase price of \$800,000 (approximately \$620,000 below market in 2016), and a grant deed which would explicitly restrict the future use of the property to those uses that are consistent with the Agricultural Association’s mission and purpose; and

WHEREAS, the 16th DAA Board endorsed these basic business terms, but was reliant on the Department of General Services to provide its approval of the Agreement and terms; and

WHEREAS, on April 12, 2022, the City received a letter and a Property Acquisition Agreement from DGS that had substantially different terms and conditions than the Agreement approved by the City in November 2016; and

WHEREAS, the City, DGS and the 16th DAA have negotiated a new agreement for the sale of a portion of Pioneer Park, and to ensure there is no cloud on title to the Property caused by having a half approved Purchase and Sale Agreement on record, Resolution 16-141 approving the transaction needs to be rescinded.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of El Paso de Robles does hereby resolve as follow:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby withdraws the offer to sell the Property to the 16th DAA as contained in the Agreement and rescinds Resolution 16-141 approving the Agreement.

APPROVED by the City Council of the City Paso Robles this 15th day of November 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Melissa Boyer, City Clerk

Steven W. Martin, Mayor

Attachment 2

RESOLUTION 22-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES FINDING THAT THE PUBLIC INTEREST AND CONVENIENCE REQUIRE THE SALE OF A PORTION OF PIONEER PARK (APN 008-254-002) AND DECLARING ITS INTENT TO SELL SUCH PROPERTY, DECLARING THE PROPERTY EXEMPT SURPLUS LAND PURSUANT TO GOVERNMENT CODE SECTION 54221(f)(1)(D), AND FINDING THAT THIS ACTION IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO STATE CEQA GUIDELINES SECTION 15301 (EXISTING FACILITIES)

WHEREAS, the City of El Paso de Robles (“City”) currently owns in fee that certain real property owned by the City commonly known as Pioneer Park (APN 008-254-002) and legally described in Exhibit “A” attached to this resolution and incorporated by reference herein (the “Property”); and

WHEREAS, California Government Code Section 54220 *et seq.* (the “Surplus Land Act”) was amended in 2019 by Assembly Bill 1486 (“AB 1486”) and requires, among other things, that prior to the disposal of any surplus land, unless an exemption applies, a local agency must provide notice to, among others, affordable housing developers, and thereafter negotiate in good faith for ninety (90) days with any parties who submit a notice of interest; and

WHEREAS, Government Code Section 54221(f)(1)(D)) provides that surplus land that a local agency is transferring to another local, state, or federal agency for the agency's use is exempt surplus and need not comply with the noticing and sales requirements to make the land available for development as affordable housing; and

WHEREAS, the City is proposing to sell the Property to the 16th DAA through the State for the 16th DAA to use in furtherance of its mission including expanding the Events Center. As the land is being sold to another governmental agency for that agency’s use the provisions of the SLA are satisfied and the property is exempt surplus land, and the City need not comply with the provisions of the Surplus Land Act as amended by AB 1486; and

WHEREAS, California Government Code Sections 37420 through 37430 authorize the City to dispose of property; and

WHEREAS, California Government Code Section 37421 provides that when the legislative body of a city finds that the public interest and convenience require the sale of public buildings and sites dedicated to public use, it may adopt a resolution of its finding and intention to sell such property; and

WHEREAS, California Government Code Section 37422 provides that such resolution shall fix a time for hearing protests to the property conveyance, provide for publication of notice of the hearing, fix the time when the City will take final action regarding the property conveyance; and contain an accurate description of the property to be conveyed; and

WHEREAS, the City wishes to declare its intent to dispose of and convey the Property pursuant to the terms of the Purchase Acquisition Agreement (“PAA”), fix a time for the hearing of any protests to the disposition, provide for publication of the notice of said hearing, and fix the time for final action on the disposition of the Property and the PAA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

Attachment 2

- Section 2. **Surplus Land Act Determination.** The City Council hereby finds and determines that, consistent with Government Code Section 54221(f)(1)(D), the City will dispose of the Property to the 16th DAA, a State agency, for the 16th DAA's use consistent with its mission statement and therefore the City is not required to comply with the provisions of the Surplus Land Act as amended by AB 1486.
- Section 3. **Findings.** The City Council of the City hereby finds and determines that public convenience and necessity require the sale of the Property. The factors demonstrating that the public convenience and necessity require the sale of the Property include, but are not limited to the following: the Property will continue to be used as a public park for another three years and after that will be used by the Paso Robles Event Center in furtherance of the 16th DAA's mission to preserve, promote, and showcase agriculture, the arts, and the traditions of the region while maintaining a dynamic multi-use year-round event center..
- Section 4. **Declaration of Intent to Sell; Fixing of Hearing.** The City Council of the City hereby declares its intent to sell the Property pursuant to the PAA and fixes December 6, 2022 at 6:30 pm at 1000 Spring Street in the City of Paso Robles as the date, time, and location for hearing any protests to the proposed sale of the Property, approval of the PAA, and as the final action date.
- Section 5. **Publication and Posting.** In compliance with California Government Code section 37423, the City Council of the City hereby directs City staff to publish this resolution at least once in a daily newspaper prior to December 6, 2022, and to post this Resolution for not less than ten (10) days in at least three (3) conspicuous places upon the Property prior to December 6, 2022.
- Section 6. **CEQA.** The Council does hereby find that this action is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 (Existing Facilities) and hereby directs staff to file a Notice of Exemption within five (5) days of this action.
- Section 7. **Severability.** If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.
- Section 8. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

APPROVED this 15th day of November, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Steven W. Martin, Mayor

Melissa Boyer, City Clerk