



Agenda Report

Fullerton City Council

MEETING DATE: JULY 17, 2018

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: KENNETH A. DOMER, CITY MANAGER

PREPARED BY: KENNETH A. DOMER, CITY MANAGER

SUBJECT: CONSIDERATION OF QUITCLAIM DEED TO TRANSFER VACANT LAND, APN 293-241-07, ALSO KNOWN AS "BASTANCHURY LIBRARY PROPERTY," TO THE FULLERTON PUBLIC LIBRARY FOUNDATION

SUMMARY

The City currently is on title to vacant land, Assessor Parcel Number (APN) 293-241-07, located on the north side of Bastanchury Road, south of Beechwood Elementary School. The property was originally purchased by the Fullerton Public Library Foundation (Foundation) and gifted to the City for development of a branch library. The City will not develop the site as a branch library and therefore, per the reversionary language in the deed, the property is proposed to be quitclaimed back to the Foundation. This action will authorize the City Manager to sign the quitclaim document.

RECOMMENDATION

Authorize the City Manager to execute the quitclaim deed to transfer vacant land, APN 293-241-07, to the Fullerton Public Library Foundation, and other actions necessary to transfer the property.

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement:

- Infrastructure and City Assets.

FISCAL IMPACT

Approximately \$75,000 reimbursement to the City restricted to the Capital Projects Fund, Facility Capital Repair Fund or Information Technology Fund solely for Library purposes only.

DISCUSSION

On February 6, 1999, the City Council took action as part of a process for the Fullerton Public Library Foundation (Foundation) to purchase a 2.4 acre vacant parcel, APN 293-241-07, from UNOCAL. The parcel is located on the north side of Bastanchury Road, south of Beechwood Elementary School.

As part of the development of the East Coyote Hills area, the City and UNOCAL entered into a Memorandum of Right of First Refusal (per the Development Agreement dated December 17, 1991) for the subject parcel as a potential site for a branch library. Per the Staff Report, during negotiations for the property the Foundation became the proposed purchaser of the property instead of the City. Accordingly, on February 6, 1999, the City Council approved a Right of First Refusal Indemnity to facilitate the purchase agreement and a City guarantee for a potential loan the Foundation was seeking.

On July 21, 1999, a Deed of Gift was recorded by the Foundation conveying the property to the City. Per the Deed of Gift, reversionary language was included which stated:

"This deed is given upon the express condition that the above-described real property shall be used solely for public library purposes and if any part thereof is not used for such purposes, or at any time ceases to be used for such purposes, or at any time is used for any other purpose, the whole of said real property shall immediately revert to the Fullerton Public Library Foundation, its successors or assigns, and it shall be lawful for the Fullerton Public Library Foundation, its successors or assigns, to reenter and repossess said real property and thereafter to peaceably hold and enjoy the same as if this instrument had not been made and delivered."

Over the years, while it was understood that the City would not construct a branch library at the site, several discussions occurred regarding the City selling the property and structuring a deal with the Foundation in which the City would retain some portion of the proceeds to benefit the Library while the Foundation received the majority of proceeds to achieve its goal of further expanding its endowment to support the Library. On March 6, 2018, the City Council during Closed Session heard a report from the City Manager regarding the subject property and provided direction to discuss terms with the Foundation. Subsequent to that, the City Manager met with representatives of the Foundation and it was agreed that the Foundation would seek potential buyers on its own and, when appropriate, inform the City when quitclaiming the property was deemed timely. The Foundation has since informed the City that it would like the property quitclaimed back to its possession, per the reversionary language of the Deed of Gift.

Per this action, the City will quitclaim the property to the Foundation for its ultimate disposition. Since the City maintained the property since 1999 through annual weed abatements, it was proposed to the Foundation that a reimbursement be made from the sale proceeds. Those costs are estimated at approximately \$125,000 since 1999; however, the reimbursement request is \$75,000. The costs include contract machine weed abatement and hand weeding at a cost of approximately \$8,500 per year from 1999 to 2012; \$2,350 per year from 2013 to 2016; and \$2,600 per year since 2017. However, it is proposed that the reimbursement be restricted to the Library's benefit (and not general operating expenditures of the General Fund) by restricting the reimbursement to the Capital Projects Fund, Facility Capital Repair Fund, or Information Technology Fund for

Library approved projects, improvements or technology purchases, as recommended by the Library Board of Trustees and Library Director.

Attachments:

- Attachment 1 – Quitclaim Deed