

TO: James L. App, City Manager
FROM: Ed Gallagher, Community Development Director
SUBJECT: Authorize Declaration of Rescission of CCRs for Pioneer Park Property
DATE: August 20, 2013

Needs: That the City Council authorize the Mayor to sign a Declaration of Rescission of Covenants, Conditions and Restrictions on the property encompassing Pioneer Park.

Facts:

1. In 1972, the United States Department of Housing and Urban Development (HUD) provided grant funding under HUD's Open Space Land Program to assist the City in the purchase of the property encompassing Pioneer Park.
2. As a condition of the grant, the City was required by HUD to record three deeds that obligate the City to obtain prior approval of the Secretary of Housing and Urban Development before it may sell, lease, mortgage or create any indebtedness or transfer any of the property.
3. In November, 1983, Congress passed the "Housing and Urban Recovery Act".
4. On November 9, 1988, HUD issued a letter to the City stating that the "Housing and Urban Recovery Act of 1983 repealed all requirements and conditions of the Open Space Land Program, including the requirement that HUD approval was required before the City could sell, lease or otherwise transfer the property. HUD reiterated this in a more recent letter to the City dated October 30, 2012.
5. The City Attorney has prepared a Declaration of Rescission of Covenants, Conditions and Restrictions for recordation which will allow the removal from title of the requirement to obtain HUD approval for any transfers of the Pioneer Park properties.

**Analysis
and**

Conclusion: The US Department of Housing and Urban Development (HUD) provided grant funding to assist the City in the purchase of property that became Pioneer Park. In 1972 and 1973 the City recorded restrictive deeds, as required by HUD, on the properties obligating the City to obtain their approval prior to any future sale, lease, financing or transfer.

In November, 1983, Congress passed the Housing and Urban Recovery Act. This statute effectively extinguished any interest in the properties held by HUD. HUD acknowledged this in a letter to the City dated November 9, 1988 and again on October 30, 2012.

The City desires to clear title to the Pioneer Park properties from these deed restrictions. The City Attorney has prepared a Declaration of Covenants, Conditions and Restrictions for recordation to accomplish that goal.

Policy

Reference: Parks and Recreation Element of the General Plan

Fiscal

Impact: Elimination of deed restrictions may enhance the value of the Pioneer Park properties.

Options: That the City Council take the following action:

- a. Adopt a resolution approving the Declaration of Rescission of Covenants, Conditions and Restrictions, authorize the Mayor to execute the Declaration, and authorize the Declaration to be recorded on the affected Pioneer Park properties.
- b. Amend, modify, or reject the above option.

Attachments: (1)

1) Resolution including Declaration of Rescission of CCRs

**Recording Requested by
And When Recorded, Mail to:**

City of El Paso de Robles
Attn: John Falkenstien, City Engineer
1000 Spring Street
Paso Robles, CA 93446

Space Above Line for Recorder's Use Only

**DECLARATION OF RESCISSION OF COVENANTS, CONDITIONS AND
RESTRICTIONS**

THIS DECLARATION OF RESCISSION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and dated this _____ day of _____, 2013, by the City of El Paso de Robles, hereinafter referred to as "Declarant."

Recitals

WHEREAS, the United States Department of Housing and Urban Development provided grant funding under the department's Open Space Land Program to Declarant to acquire certain real property located in the City of El Paso de Robles, County of San Luis Obispo, State of California, more particularly described in Exhibit "A", attached hereto; and

WHEREAS, on October 4, 1972, Document No. 32319 was recorded in Book 1691 at Page 39 of the Official Records in the Office of the County Recorder of said County of San Luis Obispo, and is attached hereto as Exhibit "B"; and

WHEREAS, on March 22, 1973, Document No. 9022 was recorded in Book 1716 at Page 12 of the Official Records in the Office of the County Recorder, and is attached hereto as Exhibit "C"; and

WHEREAS, on April 5, 1973, Document No. 10696 was recorded in Book 1718 at Page 185 of the Official Records in the Office of the County Recorder, and is attached hereto as Exhibit "D"; and

WHEREAS, the documents referenced as Exhibit "B", Exhibit "C", and Exhibit "D" impose Covenants, Conditions and Restrictions that require the City of El Paso de Robles to obtain the prior approval of the Secretary of Housing and Urban Development before it may sell, lease, mortgage or create any indebtedness or transfer any of the real property described in Exhibit "A", or any interest therein; and

WHEREAS, on November 9, 1988, the United States Department of Housing and Urban Development issued a letter to the City of El Paso de Robles stating that the Housing and Urban-Rural Recovery Act of 1983 repealed all requirements and conditions of the Open Space Land

Program and that the City of El Paso de Robles could sell or dispose of the subject property in whatever manner it deemed appropriate. A true and correct copy of the letter is attached hereto as Exhibit "E." and is incorporated herein by reference.

NOW, THEREFORE, by recordation of this Declaration of Rescission of Covenants, Conditions and Restrictions, it is the intention of the Declarant that the Covenants, Conditions and Restrictions contained in Exhibits "B", "C", and "D" shall be rescinded and shall have no further force or effect upon the property described in Exhibit "A".

DECLARANT:
City of El Paso de Robles

Dated: _____

Duane Picanco
Mayor

Dated: _____

Dennis Fansler
City Clerk

[Acknowledgments Attached]

ACKNOWLEDGMENT

Exhibit "A"
Legal Description

Parcel 1 of the Parcel Map PRAL 13-0014 in the City of El Paso de Robles, as recorded on _____, 20 in Book _____ of Parcel Maps, at Page _____ in the office of the County Recorder in the County of San Luis Obispo, State of California.

Contains 2.1 acres, more or less.

Compiled on May 17, 2013 by:
Pacific Coast Survey & Design Group, Inc.
935 Riverside Avenue #10, Paso Robles, CA 93446
(805) 238-9881 • (805) 238-9882 Fax • www.pcsdg.us

Project **#12-024**
File : \\12024Lease_Desc.docx
Last Revision : **5/17/13**

048173 573 206996 00
048173 573 206996 00

DOC. No. 10696
OFFICIAL RECORDS
SAN LUIS OBISPO CO., CALIF.
WILLIAM E. ZIMARIK,
COUNTY RECORDER

APR 5 1973
TIME 1:20 PM

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

DONALD B. KEEFER, City Manager
City of Paso Robles
P.O. Box 307
Paso Robles, California 93446

COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PASO ROBLES PIONEER PARK

THESE COVENANTS, CONDITIONS AND RESTRICTIONS are
made this 4th day of April, 1973, by the CITY OF
EL PASO DE ROBLES, a municipal corporation, hereinafter
referred to as "CITY".

W I T N E S S E T H :

Section 1: DEED RESTRICTIONS - CITY agrees that
the sale, lease, mortgaging, or creation of other indebtedness
or other transfer of the following described property or any
interest therein is subject to the prior approval of the
Secretary of Housing and Urban Development:

Riverside Farm No. 1, in the City of
El Paso de Robles, County of San Luis
Obispo, State of California, according to
map of the City of El Paso de Robles, with
parts of the adjoining subdivisions filed
for record in the office of the County
Recorder of said County, October 25, 1889
in Book A, Page 169 of Maps.

EXCEPTING that portion of said land
described in the deed to Emilita A. Lyman
recorded January 26, 1953 in Book 694,
Page 594 of Official Records of said
County.

ALSO EXCEPTING THEREFROM that portion
of said land described in the deed to the

10696



U.S. Department of Housing and Urban Development
Los Angeles Area Office, Pacific/Hawaii
611 West Sixth Street
Los Angeles, California 90017

NOV 09 1998

RECEIVED
CITY MANAGER

NOV 11 1998

CITY OF PASO ROBLES

Jim App, City Manager
City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446

Dear Mr. App:

SUBJECT: HUD Project number OS-CA-09-16-1008

Thank you for your letter dated August 25, 1998, and accept our apologies for taking so long to respond in writing to it - though Wayne Itoga of our office did discuss the subject of the letter and its resolution with city staff.

As stated in your letter, the city purchased real property in 1973 under the Department's Open Space Land Program. As required, the city recorded an instrument which required the city to obtain permission from the Department regarding any future sale of the property. Wishing to sell the property this year, the city contacted the Department asking how to proceed.

Please be informed that the Housing and Urban-Rural Recovery Act of 1983 repealed all requirements and conditions of the Open Space Land Program and the city may proceed to sell or dispose of the subject property in whatever manner it deems appropriate.

Thank you for your interest in Federal entitlement programs. If you have questions or need assistance, please call Wayne Itoga, the Senior Community Planning and Development Representative assigned to the County of San Luis Obispo at 213/894-8000, extension 3308.

Very sincerely yours,

May W. Lee-Samaniego
Program Manager

cc: D. Lilley, San Luis Obispo County

RESOLUTION NO. 13-
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AUTHORIZING THE RECORDATION OF A DECLARATION OF RESCISSION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
(PIONEER PARK)

WHEREAS, the United States Department of Housing and Urban Development provided grant funding under the department's Open Space Land Program to assist the City in the purchase of property that became Pioneer Park; and

WHEREAS, on October 4, 1972, Document No. 32319 was recorded in Book 1691 at Page 39 of Official Records in the Office of the County Recorder of the County of San Luis Obispo; and

WHEREAS, on March 22, 1973, Document No. 9022 was recorded in Book 1716 at Page 12 of Official Records in the Office of the County Recorder of the County of San Luis Obispo; and

WHEREAS, on April 5, 1973, Document No. 10696 was recorded in Book 1718 at Page 185 of Official Records in the Office of the County Recorder of the County of San Luis Obispo; and

WHEREAS, the aforementioned deeds require the City to obtain prior approval of the Secretary of Housing and Urban Development before it may sell, lease, mortgage or create any indebtedness or transfer any of the Pioneer Park property; and

WHEREAS, on November 9, 1988, the United States Department of Housing and Urban Development issued a letter to the City stating that the Housing and Urban-Rural Recovery Act of 1983 repealed all requirements and conditions of the Open Space Land Program and that the City could sell or dispose of the subject property in whatever manner it deemed appropriate; and

WHEREAS, the City Attorney has prepared a Declaration of Rescission of Covenants, Conditions and Restrictions for the purposes of recordation to clear title to the Pioneer Park properties from the Department of Housing and Urban Development deed restrictions.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1: That the City Council of the City of Paso Robles does hereby approves the Declaration of Rescission of Covenants, Conditions and Restrictions ("Declaration"), in the form attached hereto as Exhibit A and incorporated herein by reference, and authorizes the Mayor to execute the Declaration.

SECTION 2: That the City Council of the City of Paso Robles does hereby authorize the recordation of the executed Declaration of Rescission of Covenants, Conditions and Restrictions against the subject Pioneer Park properties.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 20th day of August, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk