

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Ron Moreno, Director of Public Works/City Engineer

DATE: December 10, 2024

SUBJECT: Approve Stipulation for Entry of Judgment and Final Order of Condemnation for Settlement of Eminent Domain Proceeding for Nicolas Road Improvements (APN 957-150-005)

PREPARED BY: Ron Moreno, Director of Public Works
Anissa Sharp, Management Analyst

RECOMMENDATION: That the City Council adopt a resolution entitled:

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA APPROVING THAT CERTAIN STIPULATION FOR ENTRY OF JUDGMENT AND FINAL ORDER OF CONDEMNATION FOR THE SETTLEMENT OF THE EMINENT DOMAIN PROCEEDING INVOLVING THE CONDEMNATION OF CERTAIN REAL PROPERTY INTERESTS ON THE REAL PROPERTY LOCATED AT 31270 TOMMY LANE, TEMECULA (APN 957-150-005) IN CONNECTION WITH THE NICOLAS ROAD IMPROVEMENTS FROM BUTTERFIELD STAGE ROAD TO THE CALLE GIRASOL/NICOLAS ROAD CONNECTION

BACKGROUND: The City filed the eminent domain proceeding titled *City of Temecula v. Jose Leonardo Garcia, et al.* (CVSW2303954) on May 23, 2023 to acquire by eminent domain an approximate 26,957 square foot permanent maintenance and access easement and an approximate 31,520 square foot temporary construction easement for a term of twelve months on the real property located at 31270 Tommy Lane, Temecula, and identified as Riverside County Tax Assessor's Parcel Number 957-150-005 (Property) for public use, namely for the construction of certain off-site improvements, consisting of public street, drainage, access and related improvements, and all uses necessary or thereto in connection with the extension of Nicolas Road from Butterfield Stage Road to the Calle Girasol/Nicolas Road connection (Project). The approximate 26,957 square foot permanent maintenance and access easement and an approximate 31,520 square foot temporary construction easement for a term of twelve months on the Property are referred to below collectively as the Subject Property Interests. Jose Leonardo Garcia and

Mayerling Alida Monteros-Garcia (Owners) are the record owners of the Property on which the Subject Property Interests are located.

The City and the Owners negotiated the City's acquisition of the Subject Property Interests and the all-inclusive settlement of the eminent domain proceeding and reached an agreement pursuant to the attached Stipulation for Entry of Judgment and Final Order of Condemnation (Stipulation), subject to approval of the City Council.

The City is condemning the 26,957 square foot permanent maintenance and access easement for the construction of certain public street, drainage, access, public utility and related improvements and all uses necessary or convenient thereto in connection with the Project. Pursuant to the Stipulation, the City is authorized to use the approximate 31,520 temporary construction easement for a term of twelve months to facilitate the construction of the public street, drainage, access, public utility and related improvements, and all uses necessary or convenient thereto in connection with the Project. The effective date of possession for the temporary construction easement is March 28, 2024 pursuant to an Order for Possession entered by the Court on February 27, 2024. Accordingly, the termination date of the temporary construction easement is March 27, 2025.

Pursuant to the Stipulation, the City will pay for the benefit of Owners and Owners will accept from the City the total just compensation of \$148,925 (One Hundred Forty-Eight Thousand Nine Hundred Twenty-Five Dollars) (Total Just Compensation) as the full and final settlement of any and all of the claims of Owners arising out of or in connection with the City's acquisition of the Subject Property Interests in connection with the Project, and includes and satisfies any and all other payments, if any, that the City may be required by law to pay to Owners in the eminent domain proceeding. The Total Just Compensation includes, but is not limited to, compensation for the City's acquisition of the Subject Property Interests, severance damages, cost-to-cure damages, inverse condemnation, pre-condemnation damages, de facto taking, claims and damages relating to loss of access or impacts to access, loss of rents, loss of profits, costs, litigation expenses, expert witness fees, appraisal costs, attorneys' fees, interest, any claims and damages asserted by Owners or that Owners could assert in this eminent domain proceeding, and any other damages of every kind and nature suffered or to be suffered by Owners by reason of the City's acquisition of the Subject Property Interests, the construction and use of Project as proposed, and the eminent domain proceeding. Pursuant to the Stipulation, the City also agreed to install certain fencing depicted on EXHIBIT 4 to the Stipulation. The City agreed to provide to Owners a key to access the gate for the fencing installed by the City. Further, the Stipulation provides that any fencing installed by Owners, at their sole cost and expense, at other locations along the perimeter of the permanent maintenance and access easement or other portions of the Property along the property lines with Calle Girasol and Tommy Lane are subject to Owners' compliance with any applicable laws, regulations, or permits.

The instructions for the payment of the Total Just Compensation are included in the Stipulation. The City previously deposited with the State Treasurer's Office the sum of \$59,600 as the amount of probable compensation. Owners withdrew \$10,000 from the \$59,600 condemnation deposit. The Stipulation provides that the City will issue a check for the benefit of Owners in the amount of \$89,325, which is the difference between the \$148,925 Total Just Compensation and the \$59,600 Condemnation Deposit, payable to "Law Offices of Robert A. Stack" within 30 days of the entry of Judgment in the eminent domain proceeding.

If the City approves the Resolution approving the Stipulation, the City will file the Stipulation with the Court. The Court will enter a Judgment in Condemnation. After the payment of the Total Just Compensation is made, the Court will enter a Final Order of Condemnation. The City's easement interest in the permanent easement is vested in the City on recording of the Final Order of Condemnation in the Official Records of the County of Riverside.

FISCAL IMPACT: None

ATTACHMENTS:

1. Resolution
2. Stipulation for Entry of Judgment and Final Order of Condemnation