

## **ATTACHMENT 2**

Proposed Resolution of Necessity

(follows this page)

**RESOLUTION NO. 2022-42**

**RESOLUTION OF NECESSITY FOR THE ACQUISITION OF A FEE INTEREST IN CERTAIN REAL PROPERTY, BY EMINENT DOMAIN, LOCATED ON THE NORTHEAST CORNER OF MILES AVENUE AND WARNER TRAIL, IN THE CITY OF INDIAN WELLS, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 633-360-002, IN RIVERSIDE COUNTY, CALIFORNIA, FOR AN AFFORDABLE HOUSING, PUBLIC PARKING, RECREATION FACILITIES AND OPEN SPACE PROJECT**

**WHEREAS**, the City of Indian Wells ("City") proposes to acquire a fee interest in certain real property, located on the northeast corner of Miles Avenue and Warner Trail, in Indian Wells, California, more particularly described as Assessor Parcel No. 633-360-002, for the City of Indian Wells to undertake an Affordable Housing, Public Parking, Recreation Facilities and Open Space Project, under the authority granted to it by section 37350.5 of the California Government Code; and

**WHEREAS**, in accordance with section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for November 3, 2022, at 1:30 p.m., at the City of Indian Wells City Council Chambers, located at City Hall, 44950 Eldorado Drive, Indian Wells, California 92210, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

**WHEREAS**, said hearing has been held by the City, and the affected property owners were afforded an opportunity to be heard on said matters; and

**WHEREAS**, the City may now adopt a Resolution of Necessity in accordance with section 1240.040 of the California Code of Civil Procedure;

**NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:**

**Section 1. Compliance with the California Environmental Quality Act.** Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

**Section 2. Compliance with California Code of Civil Procedure.** There has been compliance by the City with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

**Section 3. Public Use.** The public use for the fee interest in certain real property to be acquired is for the construction and development of a new affordable housing development and accompanying amenities known as the City of Indian Wells affordable housing, public parking, recreation facilities and open space Project in the City of Indian Wells, Riverside County, California. Section 37350.5 of the California Government Code authorizes the City to acquire, by eminent domain, property necessary for such purposes.

**Section 4. Description of Property.** Attached and marked as Exhibit "A" are the legal definitions, and legal description, respectively, of the interest to be acquired by the City, which describe the general location and extent of the property with sufficient detail for reasonable identification.

**Section 5. Findings.** The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The property defined, described and depicted in Exhibit "A" is necessary for the proposed project; and
- (d) The offers required by section 7267.2 of the California Government Code was made.

**Section 6. Use Not Unreasonably Interfering with Existing Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the herein described property subject to such existing public use(s) pursuant to section 1240.510 of the California Code of Civil Procedure.

**Section 7. More Necessary Public Use.** Some or all of the real property affected by the interest to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with

or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the herein described real property appropriated to such existing public uses pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the affected real property that it determines are reasonably necessary to mitigate any adverse impact upon the existing public use.

**Section 8. Further Activities.** Counsel for the City is hereby authorized to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action, or other proceedings or transactions required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

**Section 9. Effective Date.** This Resolution takes effect upon adoption.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Indian Wells, California, at a regular meeting held on this 3rd day of November 2022.

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**DANA REED**  
**MAYOR**

**CERTIFICATION FOR RESOLUTION NO. 2022-42**

I, Angelica Avila, City Clerk of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on the 3rd day of November 2022, by the following vote:

AYES:  
NOES:

**ATTEST:**

**APPROVED AS TO FORM:**

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**ANGELICA AVILA**  
**CITY CLERK**

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**TODD LEISHMAN**  
**CITY ATTORNEY**

**EXHIBIT "A"**

**Legal Definition**

The following is the definition of legal rights to be acquired by the City of Indian Wells:

**"Fee"** also known as fee simple or fee simple absolute, grants to the City of Indian Wells absolute ownership of the property.

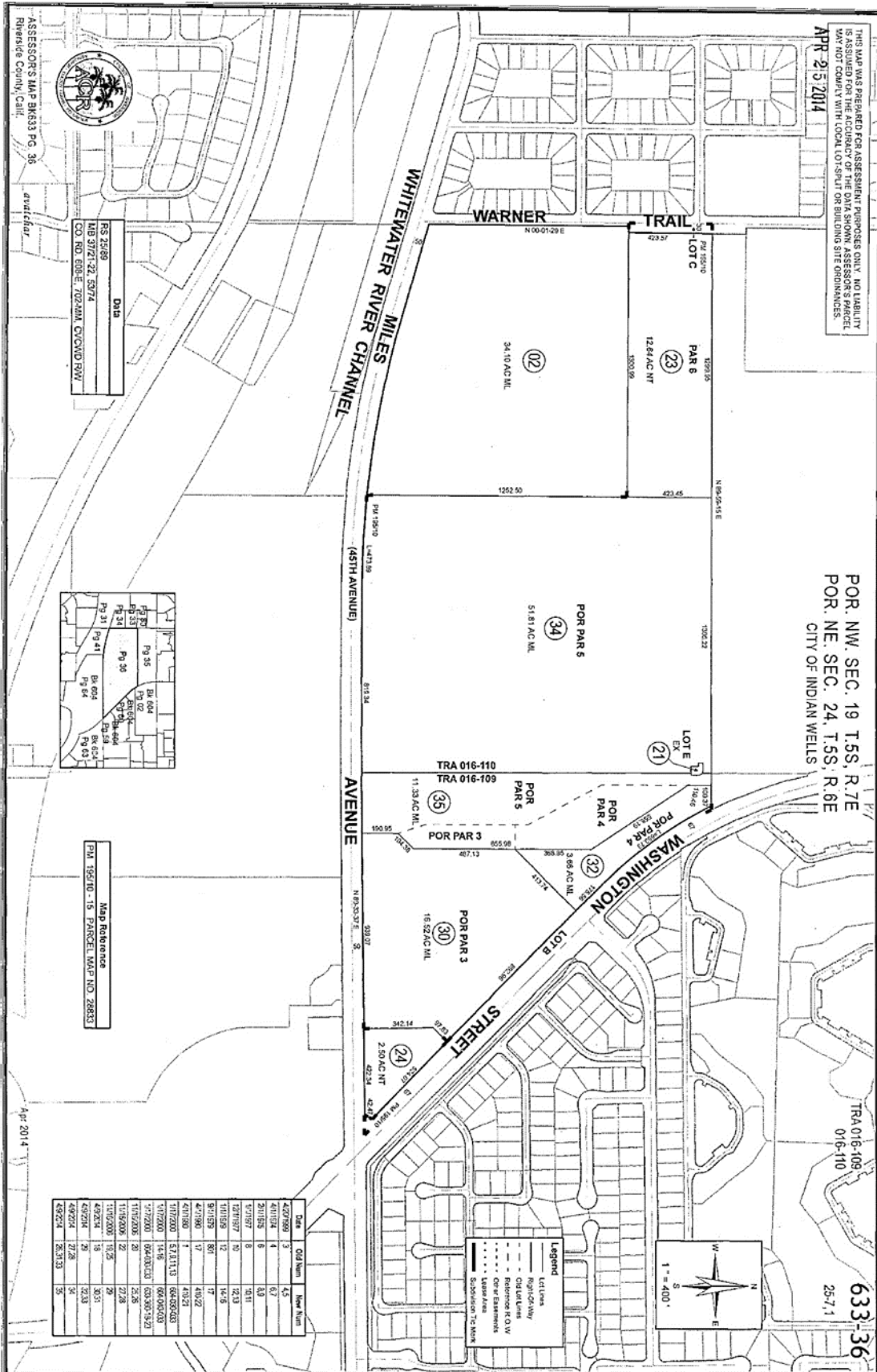
**Legal Description**

The Southwest quarter of the Northeast quarter of Section 24, Township 5 South, Range 6 East, San Bernardino Base and Meridian;

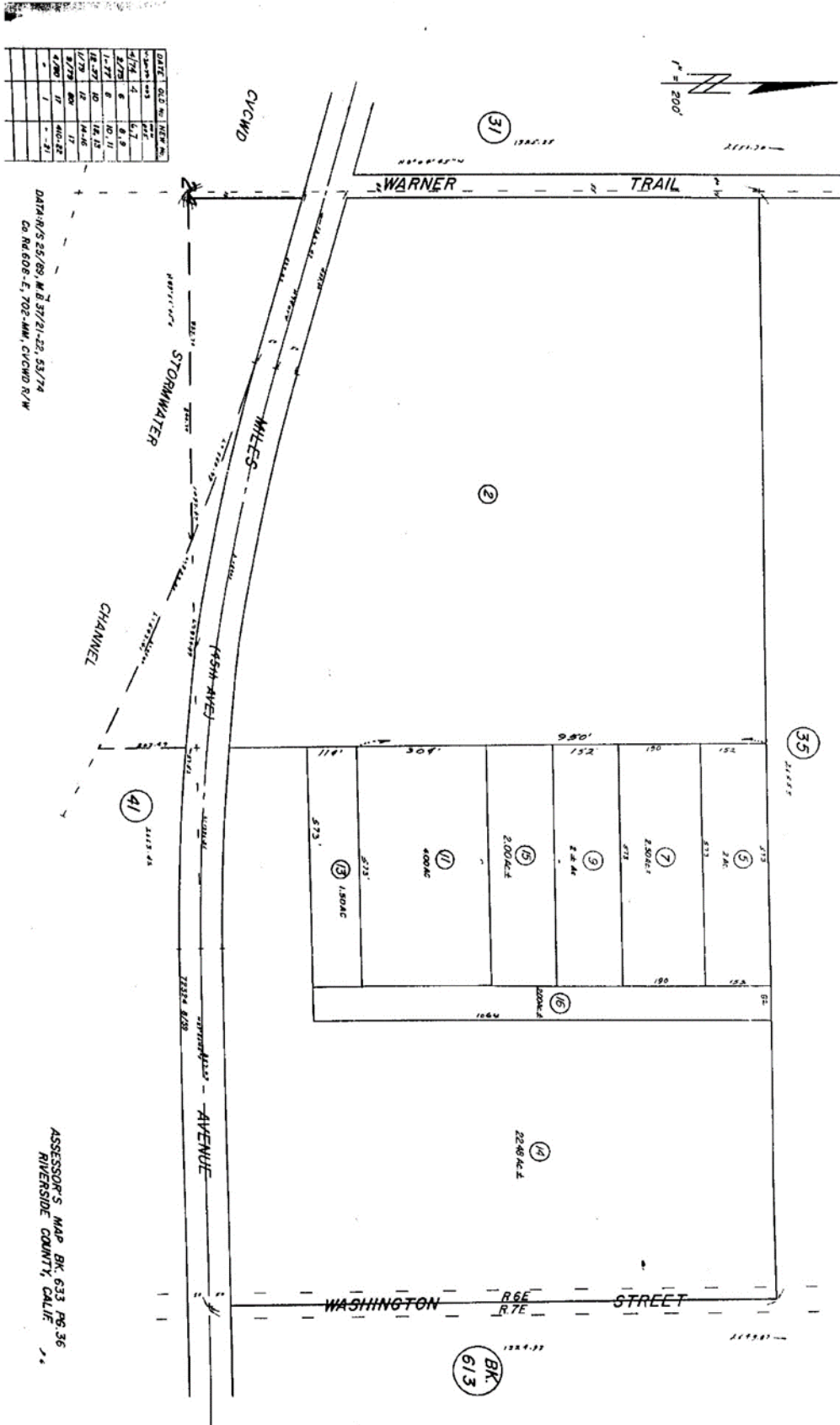
Exception therefrom the Westerly 15 feet thereof;

Also excepting therefrom that portion lying Southerly of the Northerly line of that portion conveyed to the County of Riverside, by deed recorded September 24, 1957 in Book 2152 Page 289 of Official Records of Riverside County, California.

Parcel No.: 633-360-002  
Also Known as: 633-360-002 Vacant Land  
Indian Wells CA 92210







DATE	U.S. NO.	NER. NO.
1/7/78	1	1-7
1/7/78	2	1-8
1/7/78	3	1-9
1/7/78	4	1-10
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1/7/78	6	1-12
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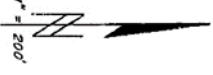
DATA: 8/5, 25/89, M, 3/27/21, 22, 53, 7/4  
 CO. NO. 608-41, 702-AM, C/CWD R/W

ASSESSOR'S MAP BK. 633 PG. 36  
 RIVERSIDE COUNTY, CALIF.

633-36

T.C.A. 7912  
 POR N1/2SE1/4 & S1/2 NE1/4 SEC. 24, T5S, R6E

25-7,1



BK. 613