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AB-1476 Park property: City of Modesto: Beard Brook Park. (2021-2022)

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Assembly Bill No. 1476

CHAPTER 718

An act relating to park property.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1476, Gray. Park property: City of Modesto: Beard Brook Park.

The Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act) authorizes the issuance of bonds for the purpose of financing a program for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and protection of park, recreational, cultural, historical, fish and wildlife, lake, riparian, reservoir, river, and coastal resources, as specified. That bond act prohibits the use of the grant funds unless the applicant has agreed to certain conditions, including, but not limited to, using the property only for the purposes for which the grant was made and making no other use or sale or other disposition of the property, except as authorized by a specific act of the Legislature.

This bill would authorize the City of Modesto, until June 30, 2023, to dispose of all or a portion of Beard Brook Park acquired, developed, or improved with grant moneys from the bond act described above, subject to the acquisition of replacement park property, as approved by the Department of Parks and Recreation, to be used for park purposes in perpetuity and at no cost to the state, as provided.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Modesto.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) For purposes of this section, the following definitions apply:

(1) "Beard Brook Park property" means the portion of Beard Brook Park to be disposed of by the City of Modesto pursuant to subdivision (c).

(2) "Department" means the Department of Parks and Recreation.

(b) It is the intent of the Legislature that the disposition of park property and the acquisition of replacement park property authorized under this act is for the sole purpose of increasing recreational opportunities in the City of Modesto.

(c) Notwithstanding any other law, no later than June 30, 2023, the City of Modesto may dispose of all or a portion of Beard Brook Park acquired, developed, or improved with grant moneys from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act) (Chapter 1.692 (commencing with Section 5096.300) of

Division 5 of the Public Resources Code), subject to the acquisition of replacement park property, as approved by the department, to be used for park purposes in perpetuity, subject to all applicable requirements of that bond act, and at no cost to the state, if all of the following requirements are met:

- (1) The city obtains an independent appraisal of the fair market value of the Beard Brook Park property, as approved by the department, and submits the appraisal to the department no later than January 7, 2022.
- (2) The city obtains an independent appraisal of the fair market value of the proposed replacement park property to be acquired, as approved by the department, and submits the appraisal to the department no later than January 7, 2022.
- (3) The fair market value of the proposed replacement park property is equal to or greater than the highest of the following:
 - (A) The original amount of the grant received by the city for the acquisition or development of Beard Brook Park.
 - (B) The fair market value of the Beard Brook Park property.
 - (C) The actual sales price of the Beard Brook Park property.
- (4) The recreational utility to the public of the proposed replacement park property is equal to or greater than that of the Beard Brook Park property, as approved by the department.
- (5) No later than January 7, 2022, the city provides the department with all of the following:
 - (A) Preliminary title reports that set forth all liens, encumbrances, easements, restrictions, conditions, exceptions, and other matters of record affecting title to the Beard Brook Park property and the proposed replacement park property.
 - (B) A written environmental site assessment on the proposed replacement park property that describes the presence, absence, and nature of all known hazardous substances, environmental problems, faults, defects, and violations located in, on, under, or around the proposed replacement park property.
 - (C) A written attestation from the city regarding the presence and nature of all known hazardous substances, environmental problems, faults, defects, and violations located in, on, under, or around the proposed replacement park property, including whether the city objects to those hazardous substances, environmental problems, faults, defects, or violations.
 - (D) A written feasibility study that evaluates the suitability of the proposed replacement park property for public recreation.
 - (E) A complete and detailed list of the "Permitted Exceptions" listed in the preliminary title reports for the Beard Brook Park property and the proposed replacement park property that the city and current owner of the proposed replacement park property have agreed on.
 - (F) A complete and detailed list of all rights, liens, mortgages, and bonds that remain in force against both the Beard Brook Park property and the proposed replacement park property, and the details of all agreements between the city and the current owner of the proposed replacement park property regarding the nature, payment, or retirement of those rights, liens, mortgages, and bonds.
- (6) No later than June 25, 2023, and before the city disposes of the Beard Brook Park property, the city provides the department with final title reports that set forth all liens, encumbrances, easements, restrictions, conditions, exceptions, and other matters of record, including a detailed list of the "Permitted Exceptions" listed in the final title reports that the city and current owner of the replacement park property have agreed on, that affect title to the Beard Brook Park property or the proposed replacement park property.
- (7) No later than June 25, 2023, and before the city's acquisition of the proposed replacement park property, the owner of the proposed replacement park property corrects all known hazardous substances, environmental problems, faults, defects, and violations located in, on, under, or around the proposed replacement park property that the city objected to in the written attestation provided to the department pursuant to subparagraph (C) of paragraph (5).
- (8) No later than June 25, 2023, and before the city's acquisition of the proposed replacement park property, the city provides the department with a detailed written report of all known hazardous substances, environmental problems, faults, defects, and violations located in, on, under, or around the proposed replacement park property that have been corrected and a list of all those hazardous substances, environmental problems, faults, defects, or violations that have not been corrected.
- (9) Upon the requirements of paragraphs (1) to (8), inclusive, being met, and before the city disposes of the Beard Brook Park property, the city enters into a final written agreement with the department, approved by the department, to transfer all of the city's responsibilities and obligations pursuant to any grant contract applicable to the Beard Brook Park property to the proposed replacement park property in perpetuity.

(d) Replacement park property acquired pursuant to subdivision (c) shall be used for the Beard Tuolumne River Park purposes and shall be subject to all applicable requirements of the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act).

(e) Replacement park property acquired pursuant to subdivision (c) shall be acquired before or simultaneous with disposing of the Beard Brook Park property pursuant to subdivision (c).

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances concerning Beard Brook Park in the City of Modesto.