

RESOLUTION 2017-231

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING THE PARTIAL TERMINATION AND RELEASE OF A WAIVER AND INDEMNIFICATION AGREEMENT BETWEEN THE CITY AND SAN PABLO PRESERVATION, L.P. CONCERNING THE ORIGINAL CONSTRUCTION OF THE CHURCH LANE APARTMENTS LOCATED AT 2555 CHURCH LANE AND APPROVING AND AUTHORIZING THE SUBORDINATION OF THAT AGREEMENT IN CONNECTION WITH NEW FUNDING FOR THE RENOVATION OF THE CHURCH LANE APARTMENTS

WHEREAS, on April 26, 1996, the City entered into a Waiver and Indemnification Agreement with Church Lane-Rubicon Partners, a California limited partnership (the "Partnership"), providing certain terms and conditions related to the construction of the buildings now known as the Church Lane Apartments, located at 2555 Church Lane;

WHEREAS, the Waiver and Indemnification Agreement was recorded in the Official Records of Contra Costa County on May 14, 1996, as Instrument No. 96-89049;

WHEREAS, the Waiver and Indemnification Agreement was amended by an Addendum to Waiver and Indemnification Agreement, dated August 26, 1996, which was recorded on September 19, 1996, as Instrument No. 96-175890;

WHEREAS, both the Waiver and Indemnification Agreement and the Addendum thereto were re-recorded on February 25, 1997, as Instrument Nos. 97-030693 and 97-030692, respectively (collectively, the "1996 Indemnification Agreement"), for the sole purpose of correcting the address of the Property;

WHEREAS, under the 1996 Indemnification Agreement, the Partnership was allowed to proceed with construction of the apartment complex prior to completion of certain work needed to stabilize the creek bank, and, in connection therewith, the Partnership agreed to assume responsibility for the maintenance of an existing storm drain pipe on the property and to defend, indemnify and hold the City harmless from any damage to or failure of the storm drain pipe and from any building or property damage related to slope or foundation failures;

WHEREAS, the successor-in-interest of the Partnership, San Pablo Preservation, L.P., a California limited partnership ("Project Owner") is now in the process of undertaking the renovation of the Church Lane Apartments utilizing various funding sources, including Rental Assistance Demonstration ("RAD") program funding available through the U. S. Department of Housing and Urban Development ("HUD");

WHEREAS, because many of the terms and conditions of the 1996 Indemnification Agreement are no longer applicable, the Project Owner has requested that the City consent to the partial termination and release of the 1996 Indemnification Agreement and to subordinate it to the new funding, as required by HUD; and

WHEREAS, this is not a project as defined by CEQA; and

WHEREAS, the shortage of affordable homes in California cannot be reversed by new construction alone; it is imperative that existing affordable homes remain affordable to those who need them most; and

WHEREAS, delivering affordable housing to the families at Church Lane Apartments eliminates a major financial stressor, enabling families to contribute more of their income to childcare programs, healthcare, and recreation. Furthermore, the stability of secure affordable housing promotes mental wellbeing; and

WHEREAS, the City is not asked to contribute financially to the preservation of affordable housing. However, the City of San Pablo's consent to release the Waiver and Indemnification Agreement and to sign and subordinate a new Indemnification Agreement with the owner of the Church Lane Apartments is required to refinance and renovate the property. Subordination allows the Department of Housing and Urban Development to approve five (5) new project-based vouchers for residents of this affordable complex. These vouchers and HUD approval leverage millions of additional dollars for the substantial renovation of the apartment complex and new financing with deed-restricted affordable rents..

NOW, THEREFORE, the City Council of the City of San Pablo does hereby resolve as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein.

Section 2. Partial Termination and Release of 1996 Indemnification Agreement. The City Council hereby approves the partial termination and release of the 1996 Indemnification Agreement and authorizes the City Manager to execute, for recordation, on behalf of the City the Partial Termination and Release of the Waiver and Indemnification Agreement in the form attached to the staff report accompanying this resolution.

Section 3. Subordination of Indemnification Agreement to HUD Use Agreement. The City Council hereby approves the subordination of the 1996 Indemnification Agreement to the RAD Use Agreement for the reasons described in the staff report accompanying this resolution and authorizes the City Manager to execute, for recordation, on behalf of the City a subordination agreement with the Project Owner and HUD.

Section 4. Additional Actions. The City Manager is further authorized to execute such other documents and take such other actions as are necessary to carry out and implement the actions approved hereby, including, with the consent of the City

Attorney, to approve minor amendments to the Partial Termination and Release of the Waiver and Indemnification Agreement or the subordination agreement.

* * * * *

PASSED AND ADOPTED this 18th day of December, 2017, by the following vote:

AYES:	COUNCILMEMBERS:	Valdez, Kinney and Calloway
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Cruz and Morris
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST: APPROVED:

/s/ Elizabeth Pabon-Alvarado
Elizabeth Pabon-Alvarado, City Clerk

/s/ Genoveva Garcia Calloway
Genoveva Garcia Calloway, Mayor