

RESOLUTION 2021-111

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING AND AUTHORIZING EXECUTION OF A SECOND AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH AMERICAN RECESS, LLC AND THE MULHOLLAND DRIVE COMPANY, LLC, FOR THE SALE AND DEVELOPMENT OF THE SOUTHERN PORTION OF THE PROPERTY LOCATED AT 2600 MORAGA ROAD, SAN PABLO, CALIFORNIA

WHEREAS, on December 9, 2019, City Council adopted Resolution 2019-167 declaring the 4.08-acre southern portion of City-owned property located at 2600 Moraga Road (the "Property") as surplus under the requirements of Government Code section 54220;

WHEREAS, the City offered the Property for sale or lease to certain public entities for a period of 60 days under the procedures set forth in Government Code Section 54220 *et seq.* and did not receive any interest;

WHEREAS, on December 16, 2019, City Council under Closed Session authorized staff to begin negotiations with American Recess, LLC and The Mulholland Drive Company, LLC (together the "Developer") for the disposition and development of the Property as a self-storage facility (the "Project");

WHEREAS, on June 4, 2020, the City entered into a Disposition and Development Agreement (the "DDA") providing for the sale and development of the Property. The purchase price for the Property was set at \$5,125,000. The DDA calls for the Developer to construct the Project on the Property within a certain time frame and according to a specific scope of development;

WHEREAS, on May 11, 2021, the Planning Commission conducted a public hearing on the Initial Study and Mitigated Negative Declaration (IS-MND) under CEQA and recommended approving the General Plan Amendment, Rezoning, Conditional Use Permit and Design Review, which was subsequently approved by the City Council on June 7, 2021 contingent on the Zoning Ordinance being adopted (June 21, 2021) and becoming effective (July 21, 2021);

WHEREAS, on June 7, 2021, the City Council conducted a public hearing and approved an initial study and Mitigated Negative Declaration for the proposed project at 2600 Moraga Road. There have been no substantial changes to the project, conditions or circumstances regarding this project that would require additional environmental review;

WHEREAS, on June 10, 2021, the City Manager executed a first amendment to the DDA in his capacity authorized in the DDA, with the consent of the City Attorney, to approve minor, non-monetary amendments to the DDA that are necessary and appropriate for the disposition of the southern portion of 2600 Moraga Road and the development of the Project as contemplated in the DDA. The first amendment authorized

one further 90-day extension of the Contingency Period beyond June 13, 2021 (to no later than September 11, 2021) solely with respect to obtaining the Entitlements, provided that the Developer increased the Deposit by an additional \$35,000 concurrently with the execution of this First Amendment;

WHEREAS, the Developer's investigations of the Property revealed that the pipes for delivery of water are inadequate to serve the Project and will need to be completely upgraded and the Property has possible archaeological and cultural resources, necessitating further investigatory and potential remedial actions with attendant costs and time delays;

WHEREAS, given the results of the Developer's investigations of the Property, the City desires to agree to the requested changes in the DDA regarding an extension of the Contingency Period, a reduction of the Purchase Price for the Property and execution of a Connection Fee Credit Agreement with the West County Wastewater District acknowledging the allocation of sewer credits for the Project;

WHEREAS, the DDA contains provisions for the termination of the DDA by the City prior to the conveyance of title to the Property if the Developer is in default under the DDA or has not performed certain actions required by the DDA and provides the City with an option to repurchase the Property; and

WHEREAS, the Second Amendment to the DDA provides for \$382,408.33 less than the original sale price, for a total sales price of \$4,674,841.67, which remains above the fair market value of the Property according to a 2016 appraisal and consistent with subsequent information regarding commercial property values in the City and site constraints due to seismic, archeological and water delivery/piping.

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. Approval of 2nd Amendment to the DDA. The City Council hereby approves and authorizes the City Manager to execute the 2nd Amendment to the DDA, in the form attached to this resolution as Exhibit 1, on behalf of the City.

Section 3. Authorize execution of Connection Fee Credit Agreement. The City Council hereby authorizes the City Manager to execute the Connection Fee Credit Agreement with the Developer and West County Wastewater District, in the form attached to this resolution as Exhibit 2, on behalf of the City.

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ADOPTED this 7th day of September, 2021, by the following votes:

AYES:	COUNCILMEMBERS:	Cruz, Ponce, Pineda, Xavier and Pabon-Alvarado
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:	APPROVED
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/s/ Dorothy Gantt
Dorothy Gantt, City Clerk

/s/ Elizabeth Pabon-Alvarado
Elizabeth Pabon-Alvarado, Mayor