

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO: A.) NEGOTIATE AND EXECUTE A FUNDING AGREEMENT WITH THE SANTA CLARA VALLEY WATER DISTRICT (“VALLEY WATER”) FOR THE REGIONAL WASTEWATER FACILITY’S (“RWF”) PAYMENT OF PROJECT BETTERMENT COSTS FOR THE SOUTH SAN FRANCISCO BAY SHORELINE PROJECT (“SHORELINE PROJECT”); B.) DECLARE THE LEGACY LAGOONS 16-19 PROPERTY (PORTION OF APN 015-31-051) AS “EXEMPT SURPLUS LAND”; C.) NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE TRANSFER OF THE “EXEMPT SURPLUS LAND” OF THE LEGACY LAGOONS 16-19 PROPERTY TO VALLEY WATER (PORTION OF APN 015-31-051); D.) NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE TRANSFER OF PROJECT EASEMENTS TO VALLEY WATER FOR SHORELINE PROJECT ACCESS, CONSTRUCTION STAGING, AND LEVEE PROTECTION ON RWF LANDS IN EXCHANGE FOR COMPENSATION; AND E.) NEGOTIATE AND EXECUTE ALL OTHER NECESSARY DOCUMENTS TO EFFECTUATE THE TRANSFER OF THE LEGACY LAGOON 16-19 PROPERTY AND RELATED PROJECT EASEMENTS

WHEREAS, the South San Francisco Bay Shoreline Project (“Shoreline Project”) is a congressionally authorized project sponsored by the U.S. Army Corps of Engineers (“USACE”) together with Valley Water (formerly Santa Clara Valley Water District) and the California State Coastal Conservancy to manage flood risk and ecosystem restoration along the South San Francisco Bay; and

WHEREAS, within the South Bay region, the Alviso area was identified as the first phase of the Shoreline Project because of the high potential for flood damage, including possible damage to homes, businesses, and the Regional Wastewater Facility (“RWF”); and

WHEREAS, the City of San José (“City”) and the City of Santa Clara are co-owners of the RWF, and the City of San José, as the administering agency for the RWF, is responsible for the acquisition and disposition of real and personal property that the City determines to be reasonably necessary for treatment plant purposes; and

WHEREAS, Pond A18 consists of approximately 856 acres of land area contiguous to the RWF and Legacy Lagoons 16-19 consist of approximately 38.49 acres of land in the RWF area, as depicted in Attachments A and B, respectively, of the memorandum to the City Council dated December 4, 2020 from Kerrie Romanow, Director of Environmental Services, and Nanci Klein, Director of Economic Development; and

WHEREAS, Valley Water, as the local partner with USACE, must acquire the fee property interest in Pond A18 and Legacy Lagoons 16-19 for the Shoreline Project; and

WHEREAS, on April 14, 2020, the City Council declared Pond A18 as surplus to the needs of the City, in accordance with California’s Surplus Land Act (Cal. Gov. Code §54220 et seq.), which is required prior to completing any transfer of the property, and authorized staff to continue negotiations for the sale of Pond A18 that began in 2015 and 2017, respectively, at the direction of the Treatment Plant Advisory Committee (“TPAC”) and the City Council; and

WHEREAS, in November 2020, Valley Water offered RWF \$16,300,000 for Pond A18 after substantial negotiations, which is approximately \$12,700,000 under the appraised value of Pond A18, and staff does not recommend selling the property at that price; and

WHEREAS, Valley Water could take possession of Pond A18 through further negotiation with RWF or through a friendly condemnation proceeding, and in the interim, RWF will cooperate with the Shoreline Project by providing Valley Water access to the Pond A18 via a license agreement; and

WHEREAS, the USACE is currently redesigning the Shoreline Project with an updated alignment to include the Legacy Lagoons 16-19 property in addition to Pond A18 to expand the acreage for habitat restoration; and

WHEREAS, staff recommends that the City declare the Legacy Lagoons 16-19 property (portion of APN 015-31-051) as “exempt surplus land” to the needs of the City pursuant to Cal. Gov. Code §54221(f)(1)(D) and proceed with the actions required to transfer the Legacy Lagoons 16-19 and related easements to Valley Water for the Shoreline Project, and enter into an agreement with Valley Water to share the costs associated with the Shoreline Project betterments, which includes the construction of certain facilities that benefit the RWF; and

WHEREAS, the Council of the City of Santa Clara, as a co-owner of RWF, must also authorize staff’s recommendations and TPAC will review the proposed recommendations on December 10, 2020;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The City Manager, or his designee, is hereby authorized to:

- a. Negotiate and execute a funding agreement with the Santa Clara Valley Water District (“Valley Water”), a Special District created by the Legislature of the State of California, for the Regional Wastewater Facility’s (“RWF”) payment of project betterment costs for the South San Francisco Bay Shoreline Project (“Shoreline Project”), in the amount of \$2,000,000, or half of total project betterment costs, whichever is less; and

- b. Declare the Legacy Lagoons 16-19 property (portion of APN 015-31-051) as “exempt surplus land” to the needs of the City pursuant to Cal. Gov. Code §54221(f)(1)(D); and
- c. Negotiate and execute an agreement for the transfer of the “exempt surplus land” of the Legacy Lagoons 16-19 property to Valley Water (portion of APN 015-31-051) in accordance with Cal Gov. §54221(f)(1)(D) and San José Municipal Code §4.20.080; and
- d. Negotiate and execute an agreement for the transfer of project easements to Valley Water for Shoreline Project access, construction staging, and levee protection on RWF lands in exchange for compensation to be established by an appraisal completed by Carneghi, Nakasako, and Associates; and
- e. Negotiate and execute all other necessary documents to effectuate the transfer of the Legacy Lagoon 16-19 property and related project easements.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk