

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO (1) COMPLETE NEGOTIATION OF THE TERMS OF THE TRANSFER OF APPROXIMATELY 14.5 ACRES OF PROPERTY IN THE COYOTE VALLEY TO THE CITY; (2) NEGOTIATE AND EXECUTE AN AMENDMENT TO THE COYOTE VALLEY MASTER TRANSFER AND CONSERVATION AGREEMENT AMONG THE PENINSULA OPEN SPACE AUTHORITY, THE CITY AND THE SANTA CLARA VALLEY OPEN SPACE AUTHORITY TO REVISE PROVISIONS RELATED TO THE TRANSFER OF APPROXIMATELY 14.5 ACRES OF PROPERTY IN THE COYOTE VALLEY TO THE CITY; AND (3) TAKE VARIOUS ACTIONS RELATED TO EFFECTUATE THE TRANSFER, INCLUDING, WITHOUT LIMITATION, EXECUTION OF THE DOCUMENTS RELATED TO THE TRANSFER

WHEREAS, at an election duly and regularly held in the City of San José (“City”) on November 6, 2018, the voters, by more than the required two-thirds vote, approved Measure T, entitled: “San José Disaster Preparedness, Public Safety and Infrastructure Bond” (“Measure T”) which authorizes the City to issue general obligation bonds in the principal amount of not to exceed \$650,000,000 for the purpose of acquiring property for and constructing improvements in order to improve emergency and disaster response, repair deteriorating bridges vulnerable to earthquakes, repave streets and potholes in the worst condition, prevent flooding and water contamination including the acquisition of land in the Coyote Valley for these purposes, and repair critical infrastructure; and

WHEREAS, on July 25, 2019, pursuant to Resolution No. 79194, adopted by the City Council on June 25, 2019, the City issued its first series of general obligation bonds authorized under Measure T in the principal amount of \$239,900,000 (“Measure T Bonds”) with \$50 million of the Measure T Bonds issued as taxable bonds and allocated

by the City Council for the acquisition of land in the Coyote Valley for preventing flooding and water contamination; and

WHEREAS, the City has been working with the Santa Clara Valley Open Space Authority (“OSA”) and the Peninsula Open Space Trust (“POST”) to acquire land in the Coyote Valley for the purposes specified in Measure T and conservation purposes; and

WHEREAS, on November 6, 2019, the City Council approved the Coyote Valley Master Transfer and Conservation Agreement by and among POST, the City and OSA (the “Master Transfer Agreement”), specifying the rights and obligations of the parties related to, among other things, the acquisition of real property located in the Coyote Valley; and

WHEREAS, on November 21, 2019, the City completed the purchase of the property owned by the Brandenburg entities (“Brandenburg East” and “Brandenburg West” and together, the “Brandenburg Property”) and property owned by parties associated with the Sobrato Organization (the “Sobrato North Property”), and property owned by POST known as “Fisher Flats”; and

WHEREAS, pursuant to the terms of the Master Transfer Agreement, the City transferred the Sobrato North Property and the Brandenburg West Property to POST and granted a conservation easement over the Brandenburg East and Fisher Flats properties to OSA; and

WHEREAS, the Brandenburg entities held an option to purchase property adjacent to the Brandenburg Property consisting of approximately 16 acres known as the “Weyhe Property”, and, as part of the acquisition of the Brandenburg Property, the option to purchase the Weyhe Property was assigned to POST; and

WHEREAS, the Master Transfer Agreement specifies that POST would acquire the Weyhe Property and then transfer approximately 14.5 acres of the Weyhe Property (the “Weyhe East Property”) to the City and the remaining 1.66 acre portion to OSA, with no further expenditure of funds on the City’s part for the acquisition of the property and specified a deadline by which the City and OSA would notify POST of their respective decisions to accept or reject such transfer; and

WHEREAS, the parties amended the Master Transfer Agreement to extend the deadline on which the City and OSA would notify POST of their respective decisions to accept or reject the Weyhe Property to February 20, 2020; and

WHEREAS, POST now requests that the Master Transfer Agreement be further amended to provide that the current owners transfer the Weyhe East Property directly to the City, eliminating POST from this portion of the transaction, with POST remaining responsible for facilitating the transfer of the Weyhe East Property to the City and payment of the acquisition price for the Weyhe Property and all closing costs associated with the transfer, except for the cost of title insurance for the Weyhe East Property transferred to the City; and

WHEREAS, the parties also wish to further amend the Master Transfer Agreement to reflect the extension of the deadline for notifying POST of their respective decisions to accept or reject the transfer of the Weyhe Property; and

WHEREAS, pursuant to the Master Transfer Agreement, subsequent to the transfer of the Weyhe East Property to the City, the City and OSA will execute an amendment to the conservation easement to include the Weyhe East Property;

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

1. The City Manager is hereby authorized to:
 - a. Complete negotiation of the terms of the transfer of the Weyhe East Property to the City;
 - b. Negotiate and execute an amendment to Master Transfer Agreement, as previously amended, to revise the provisions related to the transfer of the Weyhe East Property to the City; and
 - c. Take various actions to effectuate the transfer, and take other actions related to the transfer of the Weyhe East Property contemplated by the Master Transfer Agreement, as previously amended, as the City Manager shall deem necessary, desirable or appropriate to effectuate such transactions, upon consultation with the City Attorney, including without limitation, execution of the documents related to the transfer.
2. Any authority delegated under this Resolution to the City Manager may also be exercised by the City Manager's authorized designee.
3. This Resolution shall take effect from and after the date of its passage and adoption.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk