

RESOLUTION NO. 2023-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA APPROVING AGREEMENT BETWEEN CITY OF TEMECULA AND RANCON COMMERCE CENTER PHASES 2, 3 & 4, INC. IN CONNECTION WITH OVERLAND DRIVE EXTENSION PROJECT, PW16-06

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Findings.

A. The City of Temecula (“City”) is a municipal corporation, located in the County of Riverside, State of California.

B. The Overland Drive Extension Project, PW 16-06 (“Overland Drive Extension Project”) is identified in the City’s Capital Improvement Program (CIP) Budget. The Overland Drive Extension Project, which extended Overland Drive from Commerce Center Drive to Enterprise Circle West, was completed in fall of 2018. The Overland Drive Extension Project included the demolition of three buildings located between Commerce Center Drive and Enterprise Circle West. It constructed new roadway improvements, including curbs and gutters, sidewalks, handicap access ramps, storm drains, adjusted certain utility facilities, and installed landscaping and irrigation. On December 10, 2019, the City Council accepted the improvements for the Overland Drive Extension Project and directed the City Clerk to file the Notice of Completion. On January 15, 2020, the Notice of Completion was recorded as Document Number 2020-0019782 of Official Records of the County of Riverside.

C. The Overland Drive Extension Project required the acquisition of certain real property interests from five parcels, including the acquisition of three parcels in fee (“Subject Properties”) and certain permanent easements and temporary construction easements on the remaining two parcels. The Rancon Commerce Center Phases 2, 3 & 4, Inc., a California non-profit mutual benefit corporation (“Association”) has certain interests in the Subject Properties pursuant to the Declaration of Protective Covenants for Rancon Commerce Center Phases 2, 3 & 4, Inc. recorded on October 14, 1986 as Instrument Number 254851 of Official Records of the County of Riverside, and any and all amendments and or modifications to said Declaration of Protective Covenants (collectively referred to as “Declaration of Protective Covenants”). The City has requested that the Association de-annex certain portions of the Subject Properties from the Declaration of Protective Covenants. The attached Agreement Between City of Temecula and Rancon Commerce Center Phases 2, 3 & 4, Inc. in Connection with Overland Drive Extension Project, PW 16-06 (“Agreement”) is for the completion of the outstanding obligations in connection with the removal of certain portions of the Subject Properties from the Declaration of Protective Covenants and the compensation due to the Association for the impact of said removal, landscape improvement, landscape maintenance, and related costs.

D. Pursuant to Government Code Section 7267.2, the City extended a written offer to the Association on September 5, 2013 to compensate the Association for the impact to the

Association of the City's acquisition of the Subject Properties in connection with the Overland Drive Extension Project. The offer included compensation to the Association for the impacts arising in connection with the City's acquisition of the Subject Properties and construction of the Overland Drive Extension Project, including compensation relating to the assessments for the Subject Properties and landscape maintenance costs. During the Parties' good faith negotiations, the Association informed the City that it wished to defer further negotiations until the City completed construction of the Overland Drive Extension Project to enable the Association to analyze all impacts of said Project on the interests of the Association, landscape maintenance areas.

E. The Parties resumed their good faith negotiations after the City completed the construction of the Project, and have reached an agreement for the total just compensation that the City will pay to the Association for the impact to the Association of the City's acquisition of the Subject Properties in connection with the Overland Drive Extension Project, including compensation to the Association for the impacts arising in connection with the City's acquisition of the Subject Properties and construction of the Overland Drive Extension Project, assessments for the Subject Properties and landscape improvement and maintenance costs.

F. At its meeting of September 10, 2013, the City Council approved the Mitigated Negative Declaration (MND) and Mitigation Monitoring Plan for the Murrieta Creek Overcrossing and Overland Drive Extension Project (PW00-26). The MND considered the environmental impacts of Phase I, which consists of the improvements for the Overland Drive Extension Project, PW 16-06, and demolition of certain structures. The MND also considered the impacts of Phase 2, which will construct Overland Drive between Enterprise Circle West and Diaz Road, including a bridge over Murrieta Creek. The City Council found that based on the record before it (1) the MND was prepared in compliance with California Environmental Quality Act ("CEQA"); (2) there is no substantial evidence that the Murrieta Creek Overcrossing and Overland Drive Extension Project, of which the Overland Drive Extension Project is a part, will have a significant effect on the environment that cannot be adequately and feasibly mitigated with the adopted Mitigation Monitoring Program; and (3) the MND reflects the independent judgment and analysis of the City Council. The City duly filed the Notice of Determination in accordance with CEQA.

Section 2. Approval of Agreement between City and Association. The City Council hereby approves the Agreement Between City of Temecula and Rancon Commerce Center Phases 2, 3 & 4, Inc. in Connection with Overland Drive Extension Project, PW 16-06.

Section 3. Environmental Analysis. The environmental effects of the City's acquisition of the property interests needed for the Overland Drive Extension Project were studied as an integral part of the MND and Mitigation Monitoring Program for the Murrieta Creek Overcrossing and Overland Drive Extension Project (PW00-26). The findings made by the City Council at its meeting on September 10, 2013 in approving the MND and the Mitigation Monitoring Program are the appropriate findings for the acquisition of the property interests needed for the Overland Drive Extension Project and impacts of the Project. In connection with the attached Agreement, City staff reviewed all of the environmental documentation prepared in connection with the Murrieta Creek Overcrossing and Overland Drive Extension Project (PW00-26), including, but not limited to, the MND, Mitigation Monitoring Program, the initial environmental study, agenda report relating to the approval of the MND, and the Notice of Determination. Pursuant to the criteria of Section 15162 of the CEQA Guidelines and Section

21166 of the Public Resources Code, City staff concluded that no substantial changes have occurred in the Murrieta Creek Overcrossing and Overland Drive Extension Project (PW00-26), of which the Overland Drive Extension Project, PW16-06, is a part; no substantial changes have occurred in the circumstances under which the Murrieta Creek Overcrossing and Overland Drive Extension Project (PW00-26) is undertaken; and that the City has obtained no new information of substantial importance that would require further environmental analysis, including the fact that no mitigation measures previously found not to be feasible would in fact be feasible. These environmental findings are the appropriate findings with respect to the completion of the obligations in connection with the City's acquisition of the Subject Properties and impacts of the Overland Drive Extension Project.

Section 4. City Manager's Authority. The City Manager is authorized to execute the Agreement in substantially the form attached. A copy of the final Agreement shall be placed on file in the Office of the City Clerk. The City Manager (or the City Manager's designee), is hereby authorized, on behalf of the City, to take all actions necessary and convenient to carry out and implement the Agreement, and to administer the City's obligations, responsibilities and duties to be performed under the Agreement, including but not limited to, execution of the Quit Claim Deeds for the transfer of the Remnant Areas on the remainder portions of two of the Subject Properties that were created as a result of the construction of the Project, which consist of (i) an approximate 6,859 square foot portion of Lot 25 of Tract Map 16178 and (ii) an approximate 3,917 square foot portion of Lot 14 of Tract Map 16178, which are described more particularly in the Quitclaim Deeds attached as Exhibit "B-3" and Exhibit "B-4" to the Agreement, and other similar agreements and documents as contemplated by or described in the Agreement or as necessary and convenient to effectuate the transactions contemplated therein.

Section 5. Certification. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 14th day of February, 2023.

Zak Schwank, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 2023- was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 14th day of February, 2023, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk