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2017034162

Official Records Of Sonoma County
William F. Rousseau
05/02/2017 03:11 PM
GOVERNMENT AGENCY

AGM 8 Pgs

Fee: \$0.00



MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, effective June 28, 2016, is made and entered into by and between SANTA ROSA CITY SCHOOLS, a legal entity, ("School District" or "District") and the CITY OF SANTA ROSA, a California municipal corporation, ("City") on the basis of the following facts and circumstances:

RECITALS

A. On May 28, 1988, City and Braewood Development Corporation (Braewood) as the original developer of the Fir Ridge at Fountaingrove Subdivision entered into a Holding Agreement which was recorded in the Official Records of Sonoma County as document numbered 88-063213.

B. Between 1988 and 2015 the Holding Agreement was amended eleven times, and then in 2015, the School District requested a further two-year extension to the Agreement to allow additional time, in consideration of the recovering economy and housing market, for new School District staff to develop a plan of action and implementation for Lot F (Lot F is defined in the Holding Agreement and is described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter "Lot F" or "School Site").)

C. On June 30, 2015, the School District and City entered into a "Twelfth Amendment to Holding Agreement" (hereinafter the "Twelfth Amendment."), recorded in the Official Records of Sonoma County as Document numbered 2015059614. Recitals A through X of the Twelfth Amendment are incorporated herein by reference.

D. Since that time the District has made significant good faith efforts to make the low and/or moderate income Housing Project on Fir Ridge Drive a reality. The steps the District has taken include, but are not limited to:

- The Twelfth Amendment required the District to apply by November 9, 2015 to the City's Department of Community Development for a 12-month extension of the Project Approvals, and the District timely made said application;
- The District has obtained a Cultural Resources Study for use on the Project;
- The District has retained an Engineer and obtained an Engineer's Preliminary Estimate of Costs for the Project;
- The District has issued a Request for Proposals to obtain a developer for the property.
- The District has issued a Request for Proposals for counsel to assist with the development of Certificates of Participation to finance the Project.

E. Notwithstanding the foregoing, it is not likely that the District will have both a fully executed contract in place with a developer and a funding plan in place prior to June 30, 2016, as required under the Twelfth Amendment.

F. The City and School District wish to work collaboratively to facilitate the construction of affordable housing for School District employees of low or moderate income on Fir Ridge Drive. It is the City's intent to support the District in achieving the mutual goal of construction and completion of workforce affordable housing on Fir Ridge Drive as set forth in this Memorandum of Understanding.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. The City and School District will work together toward the goal of providing for sale or rental affordable housing, or a combination thereof, for School District employees of low or moderate income on Fir Ridge Drive (the "Project"). The City agrees to provide staff support to assist School District but shall not have any obligation to contribute funds to said project unless otherwise agreed in writing by the City and School District.
2. Additionally, the City's staff shall promptly present and recommend approval of District's applications for time extensions as follows:
 - (i) City staff shall present to the Planning Commission and recommend approval of District's pending request that the District's tentative map (City File No. MAJ04-029) approval be extended through December 9, 2017.
 - (ii) City staff shall present to the Planning Commission and recommend approval of any subsequent timely-filed District request(s) that the District's tentative map (City File No. MAJ04-029) approval be further extended, for a period of twelve months for each application, up to December 9, 2019.
 - (iii) City staff shall present to the Director of Planning and Economic Development and recommend approval of District's pending request that the Project's Conditional Use Permit and Hillside Development Permit (City File No. CUP04-125 & HDP 04-004), and Design Review (City File No. DR04-118) be extended through June 30, 2017.
 - (iv) City staff shall present to the Director of Planning and Economic Development and recommend approval any subsequent timely-filed District request(s) that the Project's Conditional Use Permit and Hillside Development Permit (City File No. CUP04-125 & HDP 04-004), and Design Review (City File No. DR04-118) be further extended, for a period of twelve months for each application, up to June 30, 2020.
3. The City and School District will openly communicate with each other, to ensure each Party stays informed about the respective developments related to the Fir Ridge Drive affordable housing development.
4. The City and School District mutually agree that some of the agreed-upon deadlines in the Twelfth Amendment cannot be met within the dates set forth therein. Due to the significant good faith efforts stated in Recital D, The City agrees to extend all of the


milestones set forth in the Twelfth Amendment for an additional three years. Thus, the deadlines shall now be as follows:

- (i) The obligation to apply to the City's Department of Community Development for a 12-month extension of the Project Approvals is deemed satisfied; and
 - (ii) No later than June 30, 2019, District shall enter into a fully executed contract with a developer, and have a funding plan in place, for the construction of the Project; and
 - (iii) No later than June 30, 2020, District shall commence construction on the Project which shall mean issuance of building permits for the Project and a construction timeline; and
 - (iv) District shall diligently pursue and complete construction of the Project in a timely manner.
5. Subsequent to the agreed-upon three-year extension, the City Manager shall have the authority and discretion to act on behalf of the City Council to execute a further agreement to extend these milestones further if the Project is progressing substantially. If the City Manager determines to further extend these milestones, the City and School District shall execute and record an agreement that effectuates this extension.
6. In the event that the School District fails to meet the agreed-upon milestones per the three-year extension of the Twelfth Amendment as stated above, and if the City Manager determines the District is not substantially progressing on the Project, the failure to meet the foregoing milestones shall constitute a failure of a condition subsequent and shall make the title to the School Site recoverable by the City through the exercise of the power of termination in the Holding Agreement.
7. Except as provided herein with respect to the extensions of deadlines, all other terms and conditions of the Holding Agreement as amended shall remain in full force and effect.

IN WITNESS WHEREOF, City and School District have executed this Memorandum of Understanding effective as of the date first above written.

SANTA ROSA CITY SCHOOLS, a
legal entity

CITY OF SANTA ROSA, a municipal
corporation

By: 

By: 

Name: Dianna Kitamura
Title: Superintendent

Name: Chris Coursey
Title: Mayor

ATTEST:

APPROVED AS TO FORM

By: 
CITY CLERK


CITY ATTORNEY

Exhibit A

The land referred to herein is situated in the State of California, County of Sonoma, City of Santa Rosa, and is described as follows:

Lot F as shown on the final map of the Fir Ridge North at Fountaingrove subdivision, recorded on June 8, 1988, in Book 418 of Maps, pages 43-48, Official Records of Sonoma County.

Sonoma County Assessor's Parcel No. 173-620-030

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

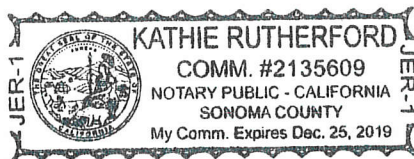
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of SONOMA)
 On 4/20/2017 before me, KATHIE RUTHERFORD, NOTARY PUBLIC,
 Date Here Insert Name and Title of the Officer
 personally appeared DIANA KITAMURA
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: MEMORANDUM OF UNDERSTANDING Document Date: 4/20/2017
 Number of Pages: 4 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

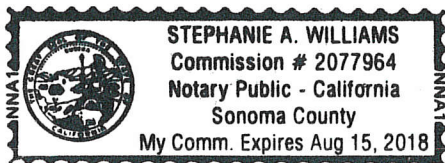
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Sonoma)
 On 5/1/2017 before me, Stephanie A. Williams, Notary Public,
 Date Here Insert Name and Title of the Officer
 personally appeared Chris Coursey
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Stephanie A. Williams
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
 Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

RESOLUTION NO. 28812

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SANTA ROSA AND THE SANTA ROSA CITY SCHOOL DISTRICT TO ACHIEVE LOW AND/OR MODERATE INCOME HOUSING ON FIR RIDGE DRIVE, LOT "F" (APN 173-620-030), AND AUTHORIZING A THREE YEAR EXTENSION TO ALL THE MILESTONES SET FORTH IN THE TWELFTH AMENDMENT TO THE HOLDING AGREEMENT

WHEREAS, the City of Santa Rosa (City) and Braewood Development Corporation (Braewood) entered into a Holding Agreement (Agreement), recorded as Document No. 88-063213, Official Records of Sonoma County, under which the Santa Rosa City School District (School District) could acquire a parcel of real property on Fir Ridge Drive, Lot "F" of the Fir Ridge North at Fountaingrove Subdivision, on which to construct a school, subject to certain conditions and during a specific time period, as set forth in the Agreement; and

WHEREAS, the City and Braewood entered into a First and a Second Amendment to the Agreement, recorded as documents numbered 1992-0117291 and 1993-0105642, Official Records of Sonoma County; and

WHEREAS, the School District subsequently acquired all of Braewood's remaining rights and interests in Lot "F" and is the assignee and successor-in-interest of Braewood under the Agreement, as amended; and

WHEREAS, the City and School District thereafter entered into a Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Amendment to the Agreement, as amended, recorded as documents numbered 1999-136815, 2003-085486, 2005-098418, 2006-101578, 2007-081165, 2008-059249, 2009-061422, 2011-061754, 2013-068304 and 2015-059614 of the Official Records of Sonoma County; and

WHEREAS, as permitted by the Agreement, as amended, the School District has elected to develop certain specified housing on Lot "F" and not a school; and

WHEREAS, the Twelfth Amendment to the Agreement set certain deadlines for School District action in the development of housing on Lot "F;" and

WHEREAS, the City and School District wish to extend those deadlines and to work collaboratively to facilitate the construction of affordable housing for School District employees of low and/or moderate income on Lot "F," and to memorialize those commitments in a Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa approves entry into a Memorandum of Understanding between the City and School District providing for collaboration between the two entities and extending all of the milestones set forth in the Twelfth Amendment to the Holding Agreement for an additional three years, thereby extending the deadline from June 30, 2016 to June 30, 2019, for the School District to enter into

a fully executed contract with a developer and extending the deadline from June 30, 2017 to June 30, 2020, for the School District to begin construction of affordable housing for School District employees of low and/or moderate income on the Fir Ridge Drive School District Site, Lot "F," with provision for additional extensions as provided herein. All other terms and conditions of the Holding Agreement as amended shall remain in full force and effect.

BE IT FURTHER RESOLVED that the Council authorizes the Mayor to execute such Memorandum of Understanding between the City and the School District, in substantially the same form as attached hereto as Exhibit A and subject to approval by the City Attorney.

BE IT FURTHER RESOLVED that the Council delegates the City Manager authority and discretion to further extend the milestones set forth in the Memorandum of Understanding if, at the time of the further extension, the project is progressing substantially. Should the City Manager determine to further extend these milestones, the City Manager is authorized to execute and record an agreement that effectuates that extension, in accordance with the terms of the Memorandum of Understanding and subject to approval by the City Attorney.

BE IT FURTHER RESOLVED that in the event that the School District fails to meet the agreed-upon milestones set forth in the Memorandum of Understanding, and if the City Manager determines the District is not substantially progressing on the development of affordable housing on Lot "F," the failure to meet the foregoing milestones shall constitute a failure of a condition subsequent and shall make the title of Lot "F" recoverable by the City through the exercise of the power of termination in the Holding Agreement.

IN COUNCIL DULY PASSED this 28th day of June, 2016.

AYES: (5) Mayor Sawyer, Vice Mayor Schwedhelm, Council Members Combs, Coursey, Olivares

NOES: (0)

ABSENT: (2) Council Members Carlstrom, Wysocky

ABSTAIN: (0)

ATTEST: Stephanie A. Williams APPROVED: [Signature]
Interim City Clerk Mayor

APPROVED AS TO FORM:

[Signature]
Interim City Attorney

Exhibit A – Memorandum of Understanding