

RESOLUTION NO. 56-2017

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF PACIFICA APPROVING AN AGREEMENT OF PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS BETWEEN THOMAS C. WILSON AND MELISSA M. FOSTER-WILSON, AS SELLERS, AND CITY OF PACIFICA, AS BUYER, FOR 532 ESPLANADE AVENUE, CITY OF PACIFICA, CA (APN 009-161-020); APPROVING THE DECLARATION OF COVENANT FOR 528 ESPLANADE AVENUE, CITY OF PACIFICA, CA (009-161-010); ACCEPTING HAZARD MITIGATION GRANT PROGRAM FUNDS; AND APPROVING BUDGET AUTHORITY OF \$993,760.00 FROM THE DISASTER ACCOUNTING FUND (FUND 38)

WHEREAS, Thomas C. Wilson and Melissa M. Foster-Wilson, husband and wife as joint tenants ("Sellers"), are the owners of that certain real property consisting of approximately 5,200 square feet located at 532 Esplanade Avenue, Pacifica, California 94044 in the County of San Mateo, State of California, and designated as Assessor's Parcel No. 009-161-020 ("532 Esplanade");

WHEREAS, the City of Pacifica ("City") is the owner of that certain real property located at 528 Esplanade Avenue, Pacifica, California 94044 in the County of San Mateo, State of California, and designated as Assessor's Parcel No. 009-161-010 ("528 Esplanade");

WHEREAS, in January 2016, the bluff on which the 528 Esplanade and 532 Esplanade (together, the "Properties") are located was subjected to El Nino-enhanced storms, periods of king tides, elevated costal water temperatures with consequent thermal expansion, and repeated offshore swell conditions of 16 to 18 feet. In 2016, the City of Pacifica ("City") declared that 532 Esplanade and 528 Esplanade were uninhabitable because bluff erosion had compromised their structural integrity;

WHEREAS, on or about June 14, 2016, the City submitted an application ("Grant Application") to the California Office of Emergency Services ("Cal OES"), which administers the Federal Emergency Management Agency's ("FEMA") Hazard Mitigation Grant Program, for funding to acquire the 532 Esplanade and demolish the structures located thereon;

WHEREAS, Cal OES and FEMA subsequently informed the City that it would provide Hazard Mitigation Grant Program funds for the City to (1) acquire 532 Esplanade for up to 75% of its pre-disaster price for conversion into open space, and (2) demolish the structures located on both Properties (the "Project");

WHEREAS, by letter dated October 3, 2017, Cal OES informed the City that up to \$993,750 is now available for the Project;

WHEREAS, City staff have negotiated with Sellers a proposed Agreement of Purchase and Sale and Joint Escrow Instructions ("Agreement"), which is attached to the staff report and incorporated by reference herein, for 532 Esplanade;

WHEREAS, FEMA requires that the City record open space deed restrictions against the Properties as a condition of accepting the Hazard Mitigation Grant Program funds;

WHEREAS, City staff have negotiated with FEMA a proposed (1) Declaration of Covenant for 528 Esplanade Avenue ("Declaration"), which is attached to the staff report and

incorporated by reference herein; and (2) Deed Restriction, which is attached to the Agreement and incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pacifica does resolve as follows:

Section 1. The City hereby finds and determines that the foregoing recitals are true and correct.

Section 2. On March 16, 2017, the Planning Commission of the City of Pacifica determined that demolition of the structures located on the Properties is Categorically Exempt from the requirements of the California Environmental Quality Act ("CEQA") under the Class 1 exemption set forth at CEQA Guidelines Sections 15301(l)(1), and that none of the exceptions to the exemption apply.

Section 3. The City hereby determines based on the evidence in the record, that the proposed purchase price of \$650,250.00 equals 75% of 532 Esplanade's pre-disaster value.

Section 4. The Planning Commission of the City of Pacifica has previously found that the acquisition of 532 Esplanade as described in the Agreement is consistent with the objectives, policies, general land uses, and programs specified in the City of Pacifica's General Plan and the Local Coastal Land Use Plan.

Section 5. The City Council hereby approves and authorizes the City Manager or his designee, to execute and enter into the Agreement in the form attached to the staff report, subject to approval of the City Attorney, with such further minor conforming, technical or clarifying changes or revisions as may be agreed to and approved by the City Attorney, which do not materially increase the obligations of the City thereunder. The City Manager or his designee and the City Clerk are further authorized and directed to take such further actions and execute such documents on behalf of the City as are necessary to carry out the transaction contemplated by the Agreement on behalf of the City. Among other things, the City Manager or his designee is authorized to execute a Certificate of Acceptance accepting 532 Esplanade on behalf of the City.

Section 6. The City Council hereby approves and authorizes the City Manager or his designee, to execute and record the Declaration in the form attached to the staff report with the San Mateo County Recorder, subject to approval of the City Attorney, with such further minor conforming, technical or clarifying changes or revisions as may be agreed to and approved by the City Attorney, which do not materially increase the obligations of the City thereunder. The City Manager or his designee and the City Clerk are further authorized and directed to take such further actions and execute such documents on behalf of the City as are necessary to implement the Declaration on behalf of the City.

Section 7. The City hereby accepts the terms of the Hazard Mitigation Grant Program and the funds granted by Cal OES for the Project.

Section 8. The City Council hereby approves and authorizes the expenditure of up to \$993,750.00 from the Disaster Accounting Fund (Fund 38), 100% of which will be reimbursed by the Cal OES from the approved Hazard Mitigation Grant Program grant.

Section 9. This resolution shall become effective immediately upon its passage and

adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 23rd day of October 2017, by the following vote:

AYES, Councilmembers: Martin, Vaterlaus, Digre, Keener, O'Neill


NOES, Councilmembers: None

ABSENT, Councilmembers: None

ABSTAIN, Councilmembers: None


CITY OF PACIFICA

By:



Mayor

ATTEST:



Kathy O'Connell, City Clerk

APPROVED AS TO FORM:



Michelle Marchetta Kenyon, City Attorney