

RESOLUTION NO. 2020-203

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING THE SECOND AMENDMENT TO THE PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS FOR PROPERTY LOCATED AT 9676 RAILROAD STREET [APNs: 134-0050-043, 134-0050-049, 134-0050-052 AND A PORTION OF 134-0010-068] AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT AND RELATED DOCUMENTS (NO FURTHER CEQA REVIEW REQUIRED)

WHEREAS, the City of Elk Grove (“City”) and Eco Green, L.L.C., a California limited liability company (“Developer”), entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions dated as of July 26, 2018, City contract number C-18-446 (“Original Agreement”), in accordance with the terms and conditions set forth in the Original Agreement; and

WHEREAS, the City and Developer entered into that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instruction dated as of October 9, 2019, City contract number C-19-531 (“First Amendment”), in accordance with the terms and conditions set forth in the First Amendment; and

WHEREAS, the Developer requests a lower interest rate on the First Amendment Promissory Note secured by Deed of Trust (First Amendment Note) and provided documentation from commercial lenders reflecting current market rate loan offers with similar loan terms at a note rate of 2.75% with a 30% loan to value; and

WHEREAS, staff supports lowering the interest rate on the First Amendment Note to the proposed market interest rate of 2.75% and requiring the Developer to increase their down payment to 30% of the purchase price, thereby reducing the First Amendment Note to Two Hundred Eighty-one Thousand Three Hundred Sixty-five and no/100 Dollars (\$281,365) from Three Hundred Forty Thousand and no/100 Dollars (\$340,000); and

WHEREAS, the Parties intend to rescind the First Amendment Note and replace it with a new Promissory Note secured by Deed of Trust in the amount of \$281,365 with an interest rate of 2.75%, and all other terms of the First Amendment Note shall remain the same (“Second Amendment Note”); and

WHEREAS, staff supports the proposed Second Amendment to the Purchase and Sales Agreement and Joint Escrow Instructions; and

WHEREAS, City shall receive an additional Sixty-seven Thousand Sixty-four and 19/100 Dollars (\$67,064.19) upon close of escrow and the new Promissory Note secured by Deed of Trust will be in the amount of \$281,365 instead of \$340,000; and

WHEREAS, the lower market interest rate and lower note amount will result in Developer’s total interest payments being reduced by \$65,028.32 over the 10-year term of the Second Amendment Note.

WHEREAS, the California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”; and

WHEREAS, the approval of an amendment to the purchase and sale agreement is a financial transaction; it does not, itself, constitute the approval of a project under CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15378(a).) Thus, this proposes approval of the agreement amendment is not subject to further CEQA review; and

WHEREAS, the potential impacts of the underlying development project have already been sufficiently analyzed under CEQA within the General Plan Environmental Impact Report (EIR) (SCH# 2017062058) and the Railroad Street Improvements Project Mitigated Negative Declaration (MND) and Supplemental MND (SCH #2019049135). As no new information of substantial importance has been identified, the City is not required to prepare a subsequent, supplemental, or addendum to either environmental document, as set forth in State CEQA Guidelines Section 15162-15614. Therefore, no further environmental review is required.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby approves the Second Amendment to Purchase and Sale Agreement and Joint Escrow Instructions including all associated documents, necessary to complete the sale of the Property to Eco Green, L.L.C.; and.

BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove hereby authorizes the City Manager to execute the Second Amendment to Purchase and Sale Agreement and Joint Escrow Instructions, in substantially the form attached, including all associated documents necessary to complete the purchase of the Property.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 9th day of September 2020



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2020-203**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) **ss**
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 9, 2020 by the following vote:

AYES: COUNCILMEMBERS: *Ly, Detrick, Hume, Nguyen, Suen*

NOES: COUNCILMEMBERS: *None*

ABSTAIN: COUNCILMEMBERS: *None*

ABSENT: COUNCILMEMBERS: *None*



**Jason Lindgren, City Clerk
City of Elk Grove, California**