

RESOLUTION NO. 2013-164

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK APPROVING AN AMENDMENT TO A PURCHASE AND SALE/CLOSING AGREEMENT WITH REDWOOD EQUITIES INVESTMENTS, LLC (APN 143-040-125, 126 & 127)

WHEREAS, Redwood Equities Investments, LLC ("Redwood") recently purchased from the City of Rohnert Park ("City") certain real property in the Stadium Lands Master Plan Area of the City pursuant to a Purchase and Sale/Closing Agreement dated as of May 8, 2013, and executed by and between the City and Redwood (the "Closing Agreement");

WHEREAS, due to a drafting error, the purchase price for the Property was overstated, and as a result, Redwood made an overpayment to City in the amount of Twenty-Six Thousand, Three Hundred Ninety-Five and 20/100 Dollars (\$26,395.20) (the "Overpayment"); and

WHEREAS, the City and Redwood propose to correct the foregoing error in accordance with a proposed Amendment to Purchase and Sale / Closing Agreement ("Amendment").

NOW, THEREFORE, the City Council of the City of Rohnert Park does hereby resolve, determine, find and order as follows:

Section 1. Recitals. The above referenced recitals are true and correct and are incorporated into and form a material part of this Resolution.

Section 2. Approval of Amendment to Purchase and Sale / Closing Agreement; Authority of City Manager. The City Council hereby approves the Amendment in the form attached to the staff report accompanying this Resolution. The City Council authorizes the City Manager to execute the Amendment on behalf of the City, in substantially such form, subject to minor modifications as may be approved by the City Attorney.

Section 3. Other Actions Authorized. The City Manager is hereby authorized and directed to take all actions reasonably necessary to carry out the intent of this Resolution and the Amendment, including without limitation, causing reimbursement to be paid to Redwood in the amount of the Overpayment.

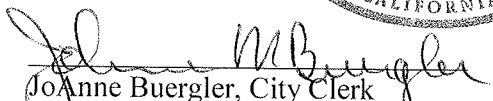
DULY AND REGULARLY ADOPTED this 10th day of December, 2013.



CITY OF ROHNERT PARK


Pam Stafford, Mayor

ATTEST:


JoAnne Buerger, City Clerk
Attachment – Amendment to Contract

AHANOTU: AYE BELFORTE: AYE MACKENZIE: AYE CALLINAN: AYE STAFFORD: AYE
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)

AMENDMENT TO PURCHASE AND SALE / CLOSING AGREEMENT

This Amendment to Purchase and Sale / Closing Agreement (this "**Amendment**") is entered into effective as of Nov. 24th, 2013 ("**Effective Date**") by and between the City of Rohnert Park, a municipal corporation ("**City**") and Redwood Equities Investments, LLC, a California limited liability company ("**Buyer**"). City and Buyer are collectively referred to herein as the "**Parties**." Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Closing Agreement (defined below).

WHEREAS, the Parties entered into that certain Purchase and Sale / Closing Agreement dated as of May 8, 2013 (the "**Closing Agreement**") pursuant to which Buyer has purchased from City certain real property (as more particularly described in the Closing Agreement, the "**Property**"); and

WHEREAS, the Parties desire to amend the Closing Agreement to correct an error in the Purchase Price for the Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1. Section 3 of the Closing Agreement is hereby amended to read as follows:

3. Purchase Price and Credits. The purchase price for the Property (the "**Purchase Price**") shall be the sum of ~~Three Million, Six Hundred Thirty-One Thousand, Six Hundred and Twelve and 45/100 Dollars (\$3,631,612.45)~~ Three Million, Six Hundred Five Thousand, Two Hundred and Seventeen and 25/100 Dollars (\$3,605,217.25). The Purchase Price reflects the three lot-line adjustments to Lot 2 and Lot 3 as described in Section 4 below, and reflects the actual square footage to be conveyed to Buyer as follows:

NW Wastewater holding pond parcel (Lot 2, PM no. 180) = 486,307 sq. ft. – 3120 sq. ft. (2-LLAs) = ~~489,427~~ 483,187 sq. ft. x \$4.23/sq. ft. = ~~\$2,070,276.21~~ \$2,043,881.01

NE Wastewater holding pond parcel (Lots 3 & 4, PM no. 180) = 106,490 sq. ft. + 130,681 sq. ft. – 2030 sq. ft. (LLA) = 235,141 sq. ft. x \$6.64/sq. ft. = \$1,561,336.24

~~\$2,070,276.21~~ \$2,043,881.01 + \$1,561,336.24 = ~~\$3,631,612.45~~ \$3,605,217.25 Total purchase price

The Parties acknowledge that pursuant to the Original Option Agreement and the Option Agreement Amendment, Buyer has made certain payments to City in an aggregate amount equal to the sum of Two Million, Six Hundred Thousand Dollars (\$2,600,000) (the "**Option Payment Credit**") which sum shall be credited toward the Purchase Price at Closing. In addition, the Parties agree that the sum of Five Hundred Thousand Dollars (\$500,000) (the "**Wastewater Holding Pond Credit**") shall be credited toward the Purchase Price at Closing to cover Buyer's cost to remediate the wastewater holding

ponds located on the Property (the "**Wastewater Holding Ponds**"). The Parties intend the provision of the Wastewater Holding Pond Credit to serve as full satisfaction of any and all obligations of City with respect to the Wastewater Holding Ponds, including without limitation, the provision of credits anticipated to have provided pursuant to Section 3.15 of the Original Option Agreement.

Taking the Option Payment Credit and the Wastewater Holding Pond Credit into consideration, the balance of the Purchase Price payable by Buyer at Closing is the sum of ~~Five Hundred Thirty-One Thousand, Six Hundred Twelve and 45/100 Dollars (\$531,612.45)~~ Five Hundred Five Thousand, Two Hundred Seventeen and 25/100 Dollars (\$505,217.25). City has no obligation to make any cash payment with respect to the Option Payment Credit or the Wastewater Holding Pond Credit -- the sole value of such credits is as an offset to the Purchase Price payable pursuant to this Agreement. If the Closing does not occur by the Termination Date (defined in Section 6 below), both the Option Payment Credit and the Wastewater Holding Pond Credit shall be forfeited, and City shall have no obligation to provide either of such credits nor any cash payment or offset of any kind to any party.

2. The Parties acknowledge and agree that as a result of the correction described above, City owes to Buyer the sum of Twenty-Six Thousand, Three Hundred Ninety-Five and 20/100 Dollars (\$26,395.20) (the "**Overpayment**"). City shall deliver such sum to Buyer by check, or if Buyer so elects by delivery of written instruction to City, City shall credit the Overpayment toward sums payable by Buyer to City in connection with planning application fees.
3. All other provisions of the Closing Agreement shall remain unchanged and in full force and effect.
4. This Amendment may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

CITY:

CITY OF ROHNERT PARK, A MUNICIPAL CORPORATION

By: _____

Print Name: _____

Title: _____

Approved as to form:

By: _____
City Attorney

BUYER:

REDWOOD EQUITIES INVESTMENTS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: Dennis R. Hunter

Print Name: Dennis R. Hunter

Title: Gen. Manager