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CITY ATTORNEY

REPORT NO. R 15 - 0 2 7 2
OCT 19 2015

REPORT RE:

**DRAFT ORDINANCE TO APPROVE A RESOLUTION AUTHORIZING
THE SALE OF PUMICE VALLEY LANDFILL PROPERTY AND AN
ACCESS ROAD EASEMENT TO THE COUNTY OF MONO**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your action the enclosed draft ordinance, approved as to form and legality. This draft ordinance would approve Resolution No. 016 059, dated October 6, 2015, authorizing the sale of 50.19 acres of City of Los Angeles (City) property located at 200 Dross Road, Lee Vining, California (Property), and a 3.12 acre road easement (Easement) for legal access to the Property, to the County of Mono (Mono County).

Background

Mono County has leased the Property from the Los Angeles Department of Water and Power (LADWP) for approximately 40 years for its operation of the Pumice Valley Landfill (Landfill). Mono County is out of compliance with its Solid Waste Facility Permit (operating permit). The operating permit was issued in 1978 for a Class II sanitary landfill; however, Mono County is currently operating the site as a transfer station and Class III landfill.

Mono County is interested in expanding the Landfill to address its future waste management needs, and in bringing the Landfill into operating compliance. To do so,

Mono County must submit a revised operating permit to the California Department of Resources Recycling and Recovery (CalRecycle), the State waste management regulator. LADWP, on behalf of the landowner, would have to sign the revised operating permit application and accept liability associated with the operating permit. Mono County's proposal to expand operations at the Landfill causes liability concerns because the City and LADWP could be held liable for environmental problems associated with permitting expanded operations.

LADWP's sale of the Property to Mono County will limit the City's liability as the landowner associated with Mono County's operation and proposed expansion of the Landfill, and resolve operating compliance and permitting issues among the City, Mono County and CalRecycle. Under the Agreement of Purchase and Sale of Real Property (Purchase Agreement), Mono County will indemnify the City and LADWP for past, current and future liability associated with the Landfill.

The following are the salient points behind LADWP's decision to sell the Property to Mono County:

- Pumice Valley Landfill is an unlined landfill that was permitted before lining requirements were in place.
- Federal Subtitle D regulations mandate lining of the Landfill's footprint in excess of the existing pre-Subtitle D footprint.
- Due to the scheduled closing of the only other landfill in the area in 2023, Mono County is interested in expanding the Landfill.
- LADWP is agreeable to selling the Property under the condition that Mono County fully indemnify the City and LADWP for all liability associated with Mono County's use and operation of the Landfill.
- Mono County has agreed to indemnify the City and LADWP as requested.
- CalRecycle and the Local Enforcement Agency (LEA) imposed a compliance schedule on both Mono County (as the operator) and LADWP (on behalf of the landowner) mandating that the Landfill be brought into operating compliance.
- Considering Mono County's continued need for the Landfill, it is in the City's best interest to sell the Property to Mono County before expansion of the Landfill in order to limit the City's exposure to any further liability.
- LADWP's sale of the Property to Mono County is the best way to reconcile the City's interests with Mono County's need for operating the Landfill.
- Mono County and LADWP have negotiated the sale of the Property with the support of CalRecycle and LEA. Should the sale not occur, the City will need to bring the Landfill into compliance.

Kleinfelder West, Inc., a national engineering consultant hired by the parties to perform an environmental assessment of the Landfill, did not identify any notable adverse environmental conditions on the Property. The resulting report will be used to establish the baseline condition of the Property before the sale and proposed expansion

of the Landfill. In addition, Mono County's Solid Waste Superintendent has provided an environmental disclosure, attached as Exhibit C to the Purchase Agreement. This environmental disclosure attests that a review of Mono County's records has revealed no known illegal use of hazardous substances, no evidence of contamination and no uncorrected violations with the exception of the violations that can be resolved with the operating permit revision, including the proposed expansion of the Landfill.

Mono County will pay \$50,000 for the Property and \$1,500 for the Easement, for a total price of \$51,500. Norris Realty Advisors, a licensed appraiser hired by the parties to appraise the Property and Easement, determined the total price to be the fair market value. Both Mono County and LADWP have agreed upon the appraisal. LADWP's total costs associated with the sale of the Property are estimated to be \$25,000, which includes sharing the environmental assessment, survey and appraisal costs.

The Mono County Board of Supervisors approved the purchase of the Property and the Easement by Mono County Resolution Nos. R15-01 and R15-59, and signed the Purchase Agreement on August 18, 2015.

On October 6, 2015, the Board adopted Resolution No. 016 059 authorizing execution of the Purchase Agreement and related documents necessary to complete this transaction.

Charter Requirements

This ordinance is transmitted for your approval pursuant to Charter Section 675, after approval by the Board of Water and Power Commissioners of the Department of Water and Power.

CEQA Findings

In accordance with the California Environmental Quality Act (CEQA), it has been determined that this transaction is exempt from further requirements under the Los Angeles City CEQA Guidelines, Article III, Class 12, Categorical Exemption.

Recommendation

Based on the foregoing, it is requested that the City Council adopt the enclosed draft ordinance. A copy of the Board Resolution is included in the Council File.

Council Rule 38 Referral

This draft ordinance has been presented to the Board of Water and Power Commissioners pursuant to Council Rule 38.

If you have any questions regarding this matter, please contact Deputy City Attorney John O. Beanum at (213) 367-4535. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

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Transmittal