

RESOLUTION 22-07

RESOLUTION OF THE BOARD OF DIRECTORS OF IRONHOUSE SANITARY DISTRICT AUTHORIZING FURTHER EVALUATION OF THE POTENTIAL NEW USE PRESENTED BY MONTEZUMA WATER, LLC, SUBJECT TO FURTHER CONDITIONS

WHEREAS, in 2018, the District issued a Request for Qualifications (RFQ) for potential partners and participants to work with the agency to achieve the goals for Jersey Island outlined in the RFQ; and

WHEREAS, on December 18, 2018, the Board of Directors selected Montezuma Water as its preferred partner based on the firm's history of innovation, its strong relationship with federal, state, local and regional agencies, and the financial and organizational capacity to address unique and challenging issues; and

WHEREAS, after negotiations between Montezuma Water and District staff and consultants, on May 7, 2019, the District and Montezuma Water, LLC ("Montezuma") entered into a Partner Agreement for Jersey Island, as amended on May 18, 2021 by a First Amendment to Partner Agreement (collectively, the "Partner Agreement"); and

WHEREAS, under Section 2.2.2 of the Partner Agreement, Montezuma was required to investigate, evaluate, and pursue potential new uses and submit to the District a detailed New Use Evaluation ("NUE") of any potential new uses by August 7, 2021; and

WHEREAS, the District has 90 days from the submission of a NUE to review the potential new uses and consider authorizing Montezuma to pursue "those new uses that are allowed by law or may be permitted on Jersey Island and that meet the District's intent to implement viable uses on Jersey Island;" and

WHEREAS, the District's approval of a potential new use constitutes approval for Montezuma to initiate further investigation and permitting activities, such as land use entitlements and compliance with CEQA, and for the parties to begin negotiating a New Use Agreement subject to approval by the Board; and

WHEREAS, Montezuma submitted an NUE with a conceptual land use plan that includes the following new uses: (a) wildlife and habitat refuge; (b) up to 450 single family homes; (c) a sports and recreation center; (d) a public marina and watersports center; (e) a 125-room hotel, workforce housing, ferry and shuttle terminal, and neighborhood retail center; (f) wind and solar energy production; (g) specialty agriculture; and (h) a habitat enhancement and mitigation bank (collectively, the "Potential New Use"); and

WHEREAS, on October 27, 2021 the Board considered and approved the Potential New Use, subject to further review and the following conditions:

- Montezuma must engage with regulatory agencies and stakeholders on the Potential New Use and provide a written report by February 1, 2022;
- Montezuma must provide a written description of the regulatory approach by

February 1, 2022;

- Montezuma must provide a detailed summary of the revenue flow to the District and how the Potential New Use would benefit the District and RD 830 by February 1; and
- Montezuma must negotiate the terms of an amendment to the Partner Agreement and a new Reimbursement Agreement to address the complexity of the anticipated land approvals and disposition and cost sharing, for consideration by the Board before proceeding with any formal land use or other applications. The amendment would include a schedule and/or proposed terms for a Lease/Option to Purchase Agreement for Jersey Island; and

WHEREAS, Montezuma provided staff with an Interim Feasibility Report on February 1, 2022, and requested more time to present a Full Feasibility Report; and

WHEREAS, the Interim Feasibility Report was presented to the Board at its February 15, 2022, Board meeting, and the Board gave Montezuma until April 19, 2022, to present its Full Feasibility Report; and

WHEREAS, the Board approved a second extension until May 3, 2022, at its April 19, 2022 Board meeting; and

WHEREAS, development of the Potential New Use would require development outside the Urban Limit Line (ULL) and/or amendments to the ULL and compliance with the Surplus Lands Act; and

WHEREAS, Montezuma has proposed a new entitlement path that would require annexation of Jersey Island into the City of Oakley, which was not originally envisioned by the parties; and

WHEREAS, the first step in annexation would be negotiation and execution of a Memorandum of Understanding between Contra Costa County, the City of Oakley and the District on services and taxes; and

WHEREAS, given the change in regulatory approach and increased complexity, the parties have not yet negotiated an amendment to the Partner Agreement; and

WHEREAS, the Potential New Use is more complex than envisioned in the Partner Agreement and would require land use approvals and property disposition not contemplated in the Partner Agreement; and

WHEREAS, the Board has considered Montezuma's NUE and the Potential New Use at a noticed public meeting in compliance with the Partner Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Ironhouse Sanitary District based upon the recitals above, the staff report and all oral and written testimony during the October 12, 2021 workshop, and the October 27, 2021, February 15, 2022, April 19, 2022, and May 3, 2022 noticed meetings, that the District hereby authorizes Montezuma to pursue, subject to the further approvals as set forth below, the Potential New Use for further investigation and study, subject to the following requirements:

1. Contra Costa County, the City of Oakley and the District shall negotiate and enter

into a Memorandum of Understanding regarding the annexation of Jersey Island and Jersey Island shall be added to the City of Oakley's Sphere of Influence no later than May 1, 2023.

2. Montezuma and District staff shall negotiate the terms of an amendment to the Partner Agreement to address the complexity of the anticipated land approvals and disposition and cost sharing, for consideration by the Board in its discretion no later than September 20, 2022 before proceeding with any formal land use or other applications other than the MOU described above. The amendment would include a schedule and/or proposed terms for a Lease/Option to Purchase Agreement for Jersey Island.

3. In the event that the MOU and amendment to Partner Agreement are not approved by the dates set forth above, Montezuma is not authorized to pursue the Potential New Use.

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by the Board of the Ironhouse Sanitary District at a meeting thereof held on the 3rd day of May, 2022.

AYES, and in favor thereof, Members:

S. Morgan, A. Lowrey and C. Lauritzen.

NOES, Members:

P. Zirkle.

RECUSED, Members:

D. Morrow.

ABSENT, Members:

None.



Secretary
(SEAL)

ATTEST:



President