

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

AN ORDINANCE OF THE SAN BENITO COUNTY)
BOARD OF SUPERVISORS TO APPROVE THE)
DEVELOPMENT AGREEMENT WITH PACIFIC BAY)
CAPITAL GROUP, LLC.)
)
)
)

ORDINANCE NO. _____

The Board of Supervisors of the County of San Benito, State of California, does ordain as follows:

SECTION 1.

- A. The Pacific Bay Capital Group, a California limited liability corporation (“Pacific Bay”) have an equitable interest in the parcel identified as 013-050-028 ("Project Site") which is described in and shown on the attached **Attachment 1**, “Legal Description”, attached hereto and incorporated herein by reference; and
- B. The County of San Benito (“County”) and Pacific Bay hereby desire to enter into a Development Agreement (“Agreement”), attached hereto and incorporated herein by reference as **Attachment 2**, “The Development Agreement,” pursuant to the Development Agreement Statute and the County Development Agreement Procedures. Development of the Project Site shall be governed by the terms of the Development Agreement. The Project Site is subject to the Development Agreement and all other County Approvals. To the extent any conflict may exist between the provisions reflected in County Code, Title 19, Chapter 19.11 and the provisions reflected in the Development Agreement, the Board ordains for purposes of this agreement, that the provisions in Development Agreement prevail and amends Chapter 19.11 accordingly; and
- C. Pursuant to Article 4 of the Agreement, Pacific Bay agrees to pay County “Community Benefits” which will benefit the County as contemplated by the Development Agreement Ordinance, including payment of 1% of Gross Receipts received at the project site, a sum to which the County would not otherwise be due.

SECTION 2. Findings

- A. The Development Agreement application was filed with the Resource Management Agency, in accordance with County Code section 19.11.007. The complete application included all the required content under County Code section 19.11.007(b), including, without limitation, the sufficient documentation to facilitate CEQA review; and the required fee deposit to facility review by San Benito County. The application is on file at the San Benito County Resource Management Agency, Building and Planning Division (File PLN190020).
- B. The Development Agreement is consistent with the General Plan and the remaining portions of the County Code, for the reasons set forth in **Resolution No. 2019-___**, incorporated herein by reference, and this Ordinance.
- C. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning of the Project Site.

The Development Agreement is consistent with public health; safety and general welfare and good land use practice. Among other things, it provides for public benefits beyond those

benefits that would be forthcoming through conditions of development project approvals as set forth herein. Specifically, the Development Agreement will provide for 1% of the Gross Receipts of the project be forwarded to the County as a Community Benefit. In addition, the Project includes the development of employment/work opportunities and maintenance of a County road.

- D. The Development Agreement will not adversely affect the orderly development of the surrounding community. In approving the conditional use permit for the project, the Planning Commission made the relevant conditional use permit findings, specifically: (1) that the proposed use is properly located in relation to the general plan and to the community as a whole and to other land uses, transportation and service facilities in the vicinity; and 2) that the proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.
- E. The project associated with the Development Agreement should be encouraged in order to meet important economic, social, environmental or planning goals of San Benito County. With regard to planning goals, the Project was prepared in accordance with the zoning code and related General Plan policies. With regard to economic and social goals, the Development Agreement also will help to satisfy goals of San Benito County to provide for more employment opportunities, generate general fund revenue for purposes which may include without limit road improvement, sheriff's expenses, and services to the general public, and also will generate sales tax revenue, and impose obligations on the Development Project to improve County Frazier Lake Road.
- F. The project and Development Agreement are consistent with Chapter 19.11. The purpose of Chapter 19.11: Development Agreements is to strengthen the public planning process, to encourage private participation in comprehensive, long range planning and to reduce the economic costs of development by enabling the county and a developer seeking county approval of a development project to enter into a development agreement which vests certain development rights and which requires a developer to provide additional public benefits. The appropriate use of development agreements will reduce uncertainty in the development review process, will promote long-term stability in the land use planning process and will result in significant public gain.

SECTION 3. General Provisions

- A. Severability: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have enacted this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.
- B. Captions: The titles and headings to the sections hereunder are not part of this ordinance and shall have no effect upon the construction or interpretation of any part hereof.
- C. Effective Date and Codification: This ordinance shall not be codified. This ordinance shall take effect thirty (30) days after its adoption. The effective date of the Development Agreement shall be the effective date of this Ordinance, so long as the Development Agreement has been signed by the Developer and County pursuant to section 19.11.008(D) of the San Benito

County Code, and assuming that the Developer has taken title to the Property. If not, the effective date shall be five (5) days from the Developer acquiring title to the Property and providing notice to the County of the same.

- D. Publication: Within ten (10) days after its adoption, this ordinance shall be published pursuant to California Government Code 6061 in its entirety in a newspaper of general circulation which is printed, published and circulated within the County of San Benito, State of California.
- E. No Duty of Care: This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the County, or any officer or employee thereof, a mandatory duty of care towards persons or property within the County or outside of the County so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO THIS 23th DAY OF JULY, 2019 BY THE FOLLOWING VOTE:

AYES: SUPERVISORS:
NOES: SUPERVISORS:
ABSENT: SUPERVISORS:
ABSTAIN: SUPERVISORS:

By: _____
Mark Medina, Chair

ATTEST:

Janet Slibsager, Clerk of the Board

By: _____

Date: _____

APPROVED AS TO LEGAL FORM

Barbara Thompson, County Counsel

By: _____

Date: _____

Attachment 1 to the Ordinance

Legal description

Attachment 2 to the Ordinance

THE DEVELOPMENT AGREEMENT

