

RESOLUTION NO. 2009-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS WITH RESPECT TO THE USE OF PAYMENTS RECEIVED FROM THE CITY OF PALO ALTO IN CONNECTION WITH THE SALE OF THE FORMER LOS ALTOS TREATMENT PLANT

WHEREAS, by a Purchase and Sale Agreement dated November 30, 2007 (the "Agreement"), the City of Los Altos (the "City") agreed to sell to the City of Palo Alto ("Palo Alto") certain interests in real property commonly known as the former Los Altos Treatment Plant; and

WHEREAS, pursuant to the Agreement, Palo Alto agreed to pay a purchase price to the City; and

WHEREAS, such purchase price is payable to the City in several installments according to a schedule set forth in the Agreement, with the final installment due to the City in 2010; and

WHEREAS, the City received the first two installments in January 2008 and 2009 (the "Installments"); and

WHEREAS, on July 22, 2008, the City Council adopted Resolution 2008-36, finding that it would not be prudent for the City Council to appropriate or expend proceeds of the sale until the City Attorney reached a conclusion as to the uses to which the sale proceeds may legally be put; and

WHEREAS, Resolution 2008-36 directed the City Manager to segregate the Installments, and any subsequent payments received by the City under the Agreement, in a separate "Special Revenue Fund"; and

WHEREAS, Resolution 2008-36 further directed the City Manager not to expend moneys in the Special Revenue Fund, including interest thereon, until directed by future action of the Council; and

WHEREAS, the City Attorney has researched the validity of the uses to which the sale proceeds may legally be put and made report to the Council of her conclusions; and

WHEREAS, at the February 10, 2009, City Council meeting, a *Report of Findings: Source of Funds to Acquire the Sewer Plant Site* was released by a subcommittee of the City Council to the public and to the full membership of the Council, at which time the public was encouraged to review the report and provide to the City any new documents and/or evidence concerning the matter; and

WHEREAS, on February 24, and March 10, 2009, the City Council held duly noticed public hearings, at which the City Council heard oral and written testimony; reviewed the entire record of this matter, including the City Council subcommittee's *Report of Findings: Source of Funds to Acquire the Sewer Plant Site* (and the exhibits to that Report), the City Council subcommittee's power point presentation on its *Report of Findings: Source of Funds to Acquire the Sewer Plant Site*, a legal memorandum from Mark Mandell, Esq., entitled *Disposition of Proceeds from Sale of Former Sewer Plant Site*, dated February 18, 2009; and considered all evidence introduced at the hearings, ; and

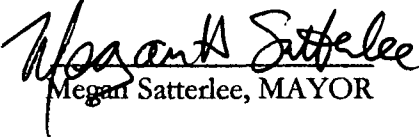
WHEREAS, the office of the City Clerk is the custodian of the documents or other material which constitute the record of this proceeding.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby resolves as follows:

1. The City Council adopts the findings and conclusions contained in its subcommittee's *Report of Findings* and specifically determines that the original and ultimate source of funds to purchase the former Los Altos Treatment Plant site was the City's General Fund.
2. The City Council directs the City Manager to segregate the Installments, and any subsequent payments received by the City under the Agreement, in a separate "Real Property Proceeds Fund."
3. In light of the current economic situation, the City Council further directs the City Manager to not expend moneys in the "Real Property Proceeds Fund," including interest thereon, until directed by future action of the Council. It is the intent of the Council that such expenditures will be made to fund City operations and capital projects, which may include, but are not restricted to, sewer system operations and projects.
4. This decision constitutes a final decision and any petition for judicial review of this decision must be sought within the applicable time limits.

I HEREBY CERTIFY that the forgoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a regular meeting thereof held on the 24th day of March 2009 by the following vote:

AYES:	PACKARD, CARPENTER, CASAS, BECKER, SATTERLEE
NOES:	NONE
ABSENT:	NONE


Megan Satterlee, MAYOR


Susan Kitchens, CITY CLERK