

ORDINANCE NUMBER O- 18394 (NEW SERIES)

ADOPTED ON APR 07 1997

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE CITY MANAGER TO EXECUTE THE CITY OF SAN DIEGO IMPLEMENTING AGREEMENT WITH CDFG AND USFWS FOR THE IMPLEMENTATION OF THE MULTIPLE SPECIES CONSERVATION PROGRAM PLAN AND CITY OF SAN DIEGO SUBAREA PLAN.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of the City, the City of San Diego Implementing Agreement (the "Agreement") with the California Department of Fish and Game ("CDFG") and the U.S. Fish and Wildlife Service ("USFWS") for the implementation of the Multiple Species Conservation Program ("MSCP") Plan, contingent upon CDFG and USFWS approval of the Agreement in substantially the same form as the form of Agreement dated December 20, 1996, and distributed to the Honorable Mayor and City Council on January 8, 1997, a copy of which is on file in the Office of the City Clerk as Document No. OO- 18394 (hereinafter referred to as the "City's Implementing Agreement"), with the following modifications:

1. Add the following sentence to the end of section 17.1.B. of the City's Implementing Agreement: "However, Third Party Beneficiary status shall not be extinguished as a result of impacts to biological values resulting from natural or other causes beyond the Third Party Beneficiary's control, as determined by the Wildlife Agencies, including fire, flood, storm, and earth movement, or from any prudent action taken by the Third Party Beneficiary to prevent,

abate, or mitigate significant injury to the land evaluated pursuant to Paragraph A, above, resulting from such causes.”

2. Add the following sentence to the end of section 10.8.G. of the City’s Implementing Agreement: “Re-zoning of property from OR-1-2 to a zone which allows greater intensity of development may only occur on land outside of the MHPA and must be accompanied with tentative map or permit conditions consistent with the MSCP and Subarea Plan.”

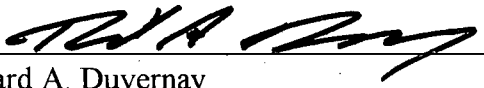
3. Delete the last sentence of section 9.13 of the City’s Implementing Agreement, which reads: “~~Lands required to be avoided or which are outside of allowable development areas pursuant to the CITY OF SAN DIEGO’S zoning requirements are not excess mitigation lands and are generally ineligible for inclusion in a conservation bank.~~”

4. Amend section 14.2 of the City’s Implementing Agreement to add the following language (new language is shaded): “Annual Reporting and Public Workshop. In accordance with Section 6.4.1 of the MSCP Plan, the CITY OF SAN DIEGO shall prepare and submit to the USFWS and the CDFG by February 15 of each year a public report containing an annual accounting, by project and cumulatively, of habitat acreage lost and conserved within the Subarea during the previous calendar year. This accounting shall specify acres conserved within the MHPA by habitat type, as well as acres committed to land development both within and outside of the MHPA, and compare these figures with results obtained utilizing the Habitat Conservation Accounting Model attached as Exhibit F to this Agreement. This report shall also describe how habitat preservation is proceeding in rough step with development. The report will be used by the USFWS and CDFG to evaluate whether adequate progress toward implementation of the MSCP and the Subarea Plan is being achieved. A public workshop or meeting will be jointly conducted

on an annual basis by staff from USFWS, CDFG, and the City to disseminate and discuss the annual report.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By   
Richard A. Duvernay  
Deputy City Attorney

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