

RESOLUTION NUMBER R- 289591

ADOPTED ON DEC 16 1997

WHEREAS, Black Mountain Ranch Limited Partnership, a Maryland Limited Partnership ("BMR") intends to construct, and the City desires that BMR construct, an extension of Carmel Valley Road, which is an important link in the City's planned road network; and

WHEREAS, BMR is authorized under its permit No. 95-20192-DZ, which was issued pursuant to Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) (the "Section 404 Permit"), to fill 0.012 acre of vernal pool in order to construct an extension of Carmel Valley Road; and

WHEREAS, pursuant to its Section 404 Permit, BMR must purchase, restore and preserve in perpetuity 0.024 acre of vernal pool surface area, as approved by the ACOE and USF&WS; and

WHEREAS, the United States Army Corps of Engineers ("ACOE"), the United States Fish & Wildlife Service ("USF&WS"), and the City prefer that BMR mitigate for its vernal pool impacts by purchasing the requisite mitigation credits from the proposed Maddox Park mitigation bank; and

WHEREAS, the Maddox Park mitigation bank is still in the early stages of being established and currently is unavailable for purchase, although if a mitigation bank is

successfully established on that site, at least 0.024 acre of vernal pool surface area will be available for purchase; and

WHEREAS, the City, because of its desire to see that the extension of Carmel Valley Road is completed in a timely fashion, is willing to convey an exclusive option to acquire a conservation easement for purchase of 0.024 of an acre of vernal pool surface area and 0.336 of an acre of associated watershed area, over a portion of the City's Winterwood Lane Community Park, as described on Exhibit A hereto (the "Winterwood Conservation Easement Site"), as backup mitigation in the event that the Maddox Park mitigation bank is not successfully established or other mitigation credits acceptable to the ACOE and the USF&WS is not available for purchase; NOW THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, an agreement with BMR for an exclusive option to acquire a conservation easement over .36 of an acre of vernal pool land at Winterwood Lane Community Park to satisfy mitigation requirements of Section 404 Permit No. 95-20192-DZ for the ultimate improvement of Carmel Valley Road,

under the terms and conditions set forth in the Agreement on file in the office of the City Clerk

as Document No. RR- 289591.

APPROVED: CASEY GWINN, City Attorney

By Richard A. Duvernay for
Richard A. Duvernay
Deputy City Attorney

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12/08/97
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Or.Dept:C&ED
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