

RESOLUTION NUMBER R- 300868

ADOPTED ON SEP 26 2005

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE CITY MANAGER TO EXECUTE THE PARK PURCHASE, DEVELOPMENT, AND REIMBURSEMENT AGREEMENT FOR BLACK MOUNTAIN RANCH NORTH WITH BLACK MOUNTAIN RANCH, LLC., AND BMR CONSTRUCTION, INC.

WHEREAS, The Black Mountain Ranch (Subarea I) Plan, approved by the San Diego City Council [City Council] by Resolution number R-290525, dated July 28, 1998, and on file in the City Clerk's office as Document number RR- 290525, and amended on November 27, 2001, by Resolution number R-295792, and on June 18, 2002, by Resolution number R-296698, designates a five (5.0) net useable acre parcel as a future neighborhood park site known as Black Mountain Ranch North Neighborhood Park; and

WHEREAS, Condition number 41 of Vesting Tentative Map 40-0528 requires the Subdivider to enter into an Agreement with the City for Property acquisition for the Black Mountain Ranch North Neighborhood Park, rough grading of the Property, design and construction of the neighborhood park facilities, contiguous half-width street improvements and utilities to serve the Property [Project], and to define the method of reimbursement for funds expended and work performed associated with such acquisition, grading, and construction; and

WHEREAS, City's Fiscal Year 2003 Black Mountain Ranch Public Facilities Financing Plan and Facilities Benefit Assessment [Financing Plan] adopted on January 14, 2003, by Resolution number R-297551, identifies the Project as Project number P-5 and identifies sources of funding for the Project; and

WHEREAS, This park project is included in the Fiscal Year 2006 Capital Improvement Program Budget as CIP#29-688.0, Black Mountain Ranch North Neighborhood Park.

WHEREAS, the Subdivider will advance all funds to design and construct the park, contiguous street improvements, and associated utilities. The Subdivider will be reimbursed for this work and acquisition of the park site pursuant to the attached agreement in either cash or Facilities Benefit Assessment credits. Cash reimbursements will occur as provided for in the FY2003 Black Mountain Ranch Public Facilities Financing Plan (PFFP) or as cash becomes available. The PFFP allows for reimbursement beginning in Fiscal Year 2007, but not until Subdivider has completed at least 1,320 dwelling units. If the park project is completed prior to reaching the 1,320 dwelling unit threshold, then the Subdivider shall maintain the park until such threshold is met, or for twenty-four months, whichever occurs first. This will ensure that the park is not constructed, and then maintained by the City, prior to the need for the park to serve the new residents.

WHEREAS, all approved costs associated with the design and construction of this project will be funded through the Black Mountain Ranch Facilities Benefit Assessment, Fund No. 79012. Annual maintenance costs, following the transfer of the Park to the City, are estimated to be approximately \$42,500. The funding for these costs will be requested as a new Park and Recreation facility in the fiscal year budget process in which the project is complete.

WHEREAS, this activity is adequately addressed in EIR Amendment #40-0528, Black Mountain Ranch North Village. There are no change in circumstances, additional information, or project changes to warrant additional environmental review; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is authorized and empowered to execute, for and on behalf of City, an agreement with Black

Mountain Ranch, LLC. and BMR Construction, Inc. for acquisition and site development of the Black Mountain Ranch North Neighborhood Park, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as Document No. RR 300868, together with any reasonably necessary modifications or amendments thereto, which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this Project and agreement.

BE IT FURTHER RESOLVED, that expenditure of an amount not to exceed \$2,250,000 from CIP No. 29-688.0, Black Mountain Ranch Neighborhood Park North, Facilities Benefit Assessment Fund No. 79012, is authorized for the purpose of providing funds for this Project, contingent upon certification by the City Auditor and Comptroller that revenues are available at the time reimbursement is scheduled for this Project.

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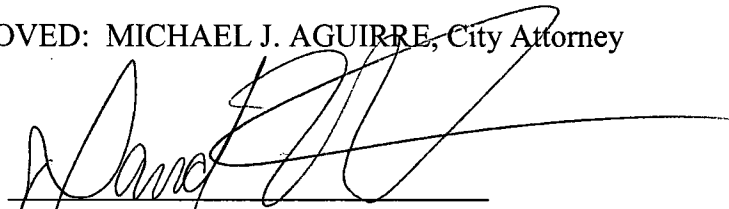
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BE IT FURTHER RESOLVED, that the City Council recognizes the fact that this activity is covered under EIR Amendment #40-0528, Black Mountain Ranch North Village. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. As the prior environmental document adequately covered this activity of part of the previously approved project, the City declares that the activity is not a separate project for the purposes of CEQA review per CEQA Guidelines Section 15060 (c)(3) as defined in Section 15378.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



David E. Miller
Deputy City Attorney

DEM:aml
08/09/05
09/26/05 Cor. Copy
Or.Dept:Park&Rec.
Aud.Cert:N/A
R-2006-136
MMS#2318