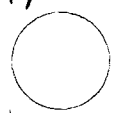


#205  
8/7/06

(R-2007-86)



RESOLUTION NUMBER R- 301820

DATE OF FINAL PASSAGE AUG 10 2006

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE REIMBURSEMENT AGREEMENT WITH BLACK MOUNTAIN RANCH, LLC AND BLACK MOUNTAIN RANCH CONSTRUCTION, INC. [HEREAFTER JOINTLY REFERRED TO AS "SUBDIVIDER"] FOR BLACK MOUNTAIN RANCH NORTH; AUTHORIZING THE MAYOR OR HIS DESIGNATED REPRESENTATIVE TO EXECUTE THE REIMBURSEMENT AGREEMENT; AND AUTHORIZING THE APPROPRIATION AND EXPENDITURE OF FUNDS FROM THE BLACK MOUNTAIN RANCH FACILITIES BENEFIT ASSESSMENT FUND FOR THE PAYMENT OF FACILITIES BENEFIT ASSESSMENT CREDITS IN A MANNER CONSISTENT WITH THE REIMBURSEMENT AGREEMENT.

WHEREAS, pursuant to Council Resolution R-301055, approved on November 21, 2005, the City of San Diego [City] entered into and approved a Joint Community Facilities Agreement [JCFA] with Subdivider to provide for the formation of a Community Facilities District [CFD] by Poway Unified School District [District] in order to finance those City facilities identified in Exhibit F of the attached Reimbursement Agreement [City Improvements] in addition to certain school improvements for Poway; and

WHEREAS, on November 1, 2005, the City Council of the City of San Diego [Council] approved and adopted the Black Mountain Ranch Public Facilities Financing Plan and Facilities Benefit Assessment for Fiscal Year 2006 [Financing Plan], by Council Resolution R-301005; and

WHEREAS, the City Improvements are all included in the Financing Plan. The Financing Plan identifies the timing of funding, design, and construction of the City Improvements as well as the sources of funding; and

WHEREAS, the current Total Estimated Cost for the design and construction of all City Improvements is one hundred sixty five million, two hundred twenty eight thousand, one hundred thirteen dollars (\$165,228,113). The Total Estimated Cost includes any necessary land acquisition, design consultant services, City project management and administration, construction, labor and contingencies. The Total Estimated Cost is subject to change as provided for in the Reimbursement Agreement with City approval; and

WHEREAS, at this time, sufficient funds are not available in the Financing Plan to construct the City Improvements.

WHEREAS, Subdivider is willing to design and construct the City Improvements as public improvements, for an amount not to exceed the Total Estimated Cost in the Financing Plan, according to plans and specifications approved by City, and to accept payment in the form of Facilities Benefit Assessment Credits [FBA Credits] from City, pursuant to the terms and conditions of this Reimbursement Agreement; NOW, THEREFORE,

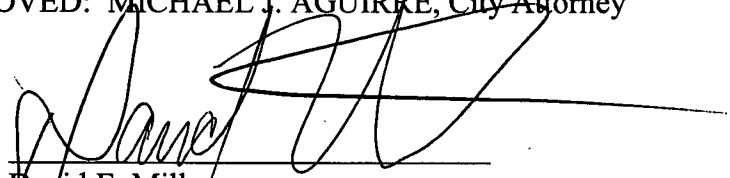
BE IT RESOLVED, by the Council of the City of San Diego, that the Council approves the Reimbursement Agreement and authorizes the Mayor or his designated representative to execute, for, and on behalf of City, the Reimbursement Agreement in the amount of \$165,228,113 with Subdivider for the design and construction of City Improvements.

BE IT RESOLVED, that the Auditor and Comptroller is authorized and empowered to appropriate and expend an amount not to exceed \$165,228,113 from FBA Fund 79012 in the

form of FBA Credits for the reimbursement of the Total Estimated Costs pursuant to the Reimbursement Agreement in a manner consistent with the timing established in the most recently adopted Financing Plan, subject to revision by subsequent updates to the Financing Plan. All expenditures shall be contingent upon the Auditor and Comptroller certifying where funds are necessary for reimbursement that such funds are, or will be, on deposit in the City Treasury.

BE IT FURTHER RESOLVED, that this activity is covered under LDR No. 96-7902 (Black Mountain Ranch, Subarea 1). 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. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
David E. Miller  
Deputy City Attorney

DEM:cfq  
07/23/06  
Or.Dept:Planning  
R-2007-86  
MMS#3513

R- 301820

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of AUG 07 2006.

ELIZABETH S. MALAND  
City Clerk

By Manuel E. Kotelian  
Deputy City Clerk

Approved: 8-10-06  
(date)

J.S.  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on AUG -7 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 10 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By *Debbie Swenson-Cruz*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number

R-301820