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RESOLUTION NUMBER R- 306960

DATE OF FINAL PASSAGE JUL 26 2011

A RESOLUTION APPROVING VESTING TENTATIVE MAP NO. 362532 FOR OTAY MESA EAST - PROJECT NO. 108628

WHEREAS, Gerald Handler, Trustee of the Handler Trust UDT, Subdivider, and RBF Consulting, Engineer, submitted an application to the City of San Diego for a Vesting Tentative Map, No. 362532, for the subdivision of a vacant approximately 21.35-acre site into commercial and open space lots, known as the Otay Mesa East Project (Project); and

WHEREAS, on September 16, 2003, the City Council of the City of San Diego approved an earlier version of the Otay Mesa East Project, Project No. 3159, for a commercial subdivision on a 45.5-acre site, including specifically Vesting Tentative Map No. 8182 (Original VTM); and

WHEREAS, on August 26, 2009, the California Department of Transportation (Caltrans) acquired approximately 24.1-acres of the 45.5-acre site through condemnation for the realignment of State Route 905 (SR 905); and

WHEREAS, the project site is located in the 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road in the AR-1-1 zone, which is proposed to be rezoned to the Otay Mesa Development District-Commercial (OMDD-C) zone, within the Otay Mesa Community Plan (Rezone); and

WHEREAS, the property is legally described as Parcel A, portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 west, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plan thereof, excepting therefrom the Northerly 40.00 feet ("Otay Mesa Road") as described in that certain deed to the City of San Diego, a Municipal Corporation, filed in the Office of the County Recorder of said County, May 27, 1983, as File No. 83-177720 of Official

Records, and all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a Certified Copy of which was recorded November 9, 2009, as File No. 2009-0624504, Official Records; Parcel B, portion of the Northeast Quarter of the Northwest Quarter of Section 32, Township 18 South, Range 1 West, San Bernardino and Meridian, in the County of San Diego, State of California, according to the Official Plan thereof, excepting therefrom the northerly 40.00 feet ("Otay Mesa Road") as described in that certain deed to the City of San Diego, A Municipal Corporation, filed in the Office of the County Recorder of said County, May 27, 1983, as File No. 83-177720 of Official Records, all that portion thereof taken by the State of California in that certain Final Order of Condemnation issued out of Superior Court Case No. 37-2008-0008061-CU-EI-CTL, a certified copy of which was recorded November 9, 2009, as File No. 2009-0624504, Official Records, and all that portion thereof described, deeded to the State of California, recorded on February 2, 2010, as File No. 2010-00054943, Official Record; and

WHEREAS, the Vesting Tentative Map proposes the subdivision of a 21.35-acre site into 8 lots for commercial use and open space (5 commercial lots, one open space lot, one lot for a private underground sewer pump station, and one lot for a private driveway); and

WHEREAS, on July 21, 2006, the Owner/Permittee filed an application for an Extension of Time (EOT) for the Original VTM prior to its expiration. However, the application for the EOT was never heard by the City Council and in accordance with San Diego Municipal Code Section 125.0461 and Subdivision Map Act Section 66452.6(e), the Original VTM could not be extended beyond September 2012 and because Subdivider desires a VTM that extends beyond September 2012, a new VTM is required for the Project; and

WHEREAS, on April 7, 2011, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 388242, and pursuant to Resolution No. 4689-PC voted

to recommend City Council approval of a Vesting Tentative Map for a three-year period for the Project with the understanding that the appropriate vehicle to accomplish that recommendation would be determined prior to the Project coming before the City Council; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act and Sections 66490 and 66491 (b)-(f) and San Diego Municipal Code Section 144.0220; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on ≡ JUL 26 2011, the City Council of the City of San Diego considered Vesting Tentative Map No. 362532, and pursuant to Section 125.0440 of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Vesting Tentative Map No. 362532:

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440(a) and Subdivision Map Action Sections 66473.5, 66474(a), and 66474(b)).** The proposed subdivision would provide eight (8) lots for commercial use and open space (5 commercial lots, one open space lot, one lot for a private underground sewer pump station, and one lot for a private driveway) along Otay Mesa Road for future development and an approximately 7.4-acre non-buildable portion of the site is located south of SR 905, a portion of which is required to be placed in a covenant of easement for protection of the 22 vernal pools and the area within the Multiple Habitat Planning Area (MHPA). The 21.35-acre vacant site is

located in the 6100 block of Otay Mesa Road (temporarily addressed as 6175 Otay Mesa Road) west of Heritage Road.

The proposed subdivision is zoned AR-1-1 within the Otay Mesa Development District (OMDD) and the Otay Mesa Community Plan (OMCP). The site is designated for Specialized Commercial uses within the OMCP, which defers development requirements to the standards and provisions of the OMDD. The proposed commercial subdivision on a 21.35-acre vacant site includes a rezone from AR-1-1 to OMDD-C (Rezone). The proposed subdivision to create commercial lots for future development is not requesting and does not require any deviations to the OMDD development regulations. The proposed subdivision would establish 5 commercial lots for future development and construct the infrastructure needed for the development. The future development on the individual lots would comply with the OMDD development regulations. With the adoption of the Rezone, the proposed subdivision and its design and improvements are consistent with the policies, goals, and objectives of the OMDD, OMCP, and the General Plan.

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440(b)).** The proposed subdivision would provide eight (8) lots for commercial use and open space (5 commercial lots, one open space lot, one lot for a private underground sewer pump station, and one lot for a private driveway) along Otay Mesa Road for future development and an approximately 7.4-acre non-buildable portion of the site located south of the SR 905, a portion of which is required to be placed in a covenant of easement for protection of the 22 vernal pools and the area within the MHPA. The proposed commercial subdivision on a 21.35-acre vacant site includes a rezone from AR-1-1 to OMDD-C. The proposed subdivision is not requesting and does not require any deviations to the development regulations in the Land Development Code. With the adoption of the Rezone, which is a condition of the VTM, the proposed commercial lots would comply with the applicable zoning and development regulations of the Land Development Code, and the OMDD.

**3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)).** The 21.35-acre vacant site has been historically used for agricultural purposes but is currently dominated by non-native grass species. Approximately 13.95-acres of the site along Otay Mesa Road currently contains a grade differential of 15 feet and slopes gently from a 520 foot above mean sea level (AMSL) from the western property line towards the east to a 505 foot AMSL at the eastern property line. The surrounding properties to the north consist of multi-family residential development, commercial/office/retail development, and open space; to the west is a proposed multi-family residential development; to the east is open space; and to the south is the realignment of SR 905, which is currently under construction.

An approximately 7.4-acre non-buildable portion of the site is located south of SR 905, a portion of which is required be placed in a covenant of easement for protection of the 22 vernal pools and the area within the MHPA. A building restrictive easement is also required to be recorded over this lot since the condemnation for the realignment of SR 905 eliminated access to this lot. The Mitigation Monitoring and Reporting Program (MMRP) for the project, which is required to be implemented as a condition of the VTM includes protocols and measures for

protection of the onsite biological resources and a vernal pool management plan. Therefore, the site is physically suitable for the type and density of development.

**4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (Land Development Code Section 125.0440(d) and Subdivision Map Act Section 66474(e)).** The MMRP for the Project includes protocols and measures for protection of the onsite biological resources and a vernal pool management plan. An approximately 7.4-acre non-buildable portion of the site is located south of SR 905, a portion of which is required be placed in a covenant of easement for protection of the 22 vernal pools and the area within the MHPA. A building restrictive easement is also required to be recorded over this lot since the condemnation for the realignment of SR 905 eliminated access to this lot. Therefore, the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440(e) and Subdivision Map Act Section 66474(f)).** With the adoption of the rezone, the proposed subdivision and its design and improvements are consistent with the policies, goals, and objectives of the OMDD, Otay Mesa Community Plan, the San Diego Municipal Code (SDMC), the General Plan, and consistent with the Subdivision Map Act. Project and permit conditions have been determined by the decision-maker as necessary to avoid adverse impacts upon the health, safety, and general welfare of persons residing, working and recreating in the surrounding area. The future development on the proposed subdivision will be required to comply with the development regulations of the OMDD and will be required to obtain building permits to show that project construction will comply with all applicable Building and Fire Code requirements. Therefore, the proposed commercial subdivision will not be detrimental to the public health, safety and welfare.

**6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440(f) and Subdivision Map Act Section 66474(g)).** The design of the proposed commercial subdivision provides for two new public access roads from Otay Mesa Road, and provides for one private road through the project that connects to the two access roads and provides access for the five proposed commercial lots. On August 26, 2009, approximately 24.1-acres of the original 45.5-acres site were acquired by the California Department of Transportation (Caltrans) through condemnation for the realignment of SR 905; and no action is proposed for that area. Therefore, the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440(g) and Subdivision Map Act Section 66473.1).** The proposed subdivision would establish 5 commercial lots for future development and construct the infrastructure needed for the development. The future development on the individual lots would comply with the

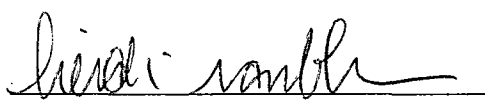
OMDD development regulations. The proposed subdivision has been designed along the east-west axis, to the extent feasible, thereby increasing the area for future passive or natural heating and cooling opportunities.

**8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440(h) and Subdivision Map Act Section 66412.3).** The vacant site has been historically used for agricultural purposes but is currently dominated by non-native grass species. The surrounding properties to the north contains multi-family residential development, commercial/office/retail development, and open space; to the west is a proposed multi-family residential development; to the east is open space; and to the south is the realignment of SR 905, which is currently under construction. The proposed commercial subdivision would allow for future commercial development and job opportunities for the current and future multi-family households within the region. Therefore, the decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 362532, is hereby granted to Gerald Handler, Trustee of the Handler Trust UDT, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Heidi K. Vonblum  
Deputy City Attorney

HKV:hm  
07/07/2011  
Or.Dept:DSD

CONDITIONS FOR VESTING TENTATIVE MAP NO. 362532

OTAY MESA EAST - PROJECT NO. 108628

ADOPTED BY RESOLUTION NO. R- 308960 ON JUL 26 2011

**GENERAL:**

1. This Vesting Tentative Map will be effective upon adoption of Rezone No. 388241.
2. This Vesting Tentative Map will expire three years after its approval or conditional approval, which will be JUL 26 2014.
3. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
4. Prior to the recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
5. The Final Map shall conform to the provisions of Site Development Permit No. 388242.
6. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**ENGINEERING:**

7. At the time of the final map, the Subdivider shall grant a building restrictive easement over Lot B.
8. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

9. Prior to the issuance of any construction permit, the Subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report.
10. The Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
11. The drainage system proposed for this subdivision, as shown on the approved Vesting Tentative Map, is private and subject to approval by the City Engineer, and shall include detention basins and flood water storage easements satisfactory to the City Engineer.
12. Development of this project shall comply with all requirements of the applicable State Water Resources Control Board (SWRCB) Order and the Municipal Storm Water Permit, governing Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.
13. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, Subdivider and Subdivider's successor(s) shall comply with special provisions as set forth in the applicable SWRCB Order.
14. The Subdivider shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
15. The applicant shall construct drainage detention basins, the design, location, and size of which are subject to approval by the City Engineer. The design shall be such that the discharge from the improved area will be no more than the discharge would have been from the land in the unimproved state. The applicant shall provide for the maintenance of the drainage detention facilities within a storage easement, satisfactory to the City Engineer.
16. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
17. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.



18. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Vesting Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

**MAPPING:**

19. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
20. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
21. The Final Map shall:
  - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

**WASTEWATER:**

22. The Subdivider shall construct the Otay Mesa Trunk Sewer Phase II or enter into an agreement to pay their fair share cost of the trunk sewer in proportion to the ultimate zoned use of the property being developed, in accordance with the City's Sewer Design Guide.
23. The Subdivider shall install all sewer facilities required by the accepted sewer study for the project, necessary to serve this development. Sewer facilities as shown on the approved vesting tentative map will require modification based on the accepted sewer study.
24. The Subdivider shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be re-designed.

25. The Subdivider shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot.
26. Prior to the issuance of any building permits, the Subdivider shall process and record a Notice & Agreement for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.
27. The Subdivider shall obtain a building permit for any private pump station serving a condominium project or more than one lot.
28. The Subdivider shall provide, satisfactory to the Public Utilities Department Director, CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
29. No structures or landscaping, including private sewer facilities and enhanced paving, shall be installed in or over any easement or street right-of-way prior to the Subdivider obtaining an Encroachment Maintenance and Removal Agreement.
30. Providing sewer for this development is dependent upon prior construction of certain portions of the Otay Mesa Trunk Sewer Phase II. If they have not been constructed when required for this development, then the construction of certain portions of these sewer facilities, as required by the City Engineer, shall become off-site improvements required for this development.

**WATER:**

31. The Subdivider shall design and construct a system of public 16-inch water facilities within Street "B," Street "C," and Street "A," with two points of connection to the Otay Mesa Pipeline, in a manner satisfactory to the Public Utilities Department Director and the City Engineer.
32. The Subdivider shall install fire hydrants at locations satisfactory to the Public Utilities Department, the Fire Department and the City Engineer.
33. The Subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), over the entire Street A, satisfactory to the Public Utilities Department Director.
34. Grants of water easements shall be of sufficient width to accommodate a minimum 24-foot wide fully paved vehicular access road with full height curbs, and 4-feet behind curb or sidewalk. Easements shall accommodate two-way traffic. Easements or lack thereof, as shown on the approved tentative map, will require modification based on standards at final engineering.

35. The Subdivider shall design and construct all irrigations systems to utilize reclaimed water in a manner satisfactory to the Public Utilities Department Director.
36. The Subdivider shall design and construct all proposed public water facilities, including services, meters, and easements, in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards, and practices pertaining thereto. Water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

**GEOLOGY:**

37. Prior to the issuance of a grading permit, the Subdivider shall submit a geotechnical report prepared in accordance with the City of San Diego's "Guidelines for Geotechnical Reports," satisfactory to the City Engineer.

**PLANNING:**

38. Prior to the recordation of the Final Map, the Subdivider shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for Sensitive Biological Resources, in accordance with San Diego Municipal Code section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands that will be preserved as shown on Exhibit "A."

**LANDSCAPE:**

39. The Final Map shall conform to the Landscape provisions of Site Development Permit No. 388242.

**TRANSPORTATION:**

40. Prior to the recordation of first final map, Subdivider shall relinquish access rights along project frontage on Otay Mesa Road, satisfactory to the City Engineer.
41. Street B is classified as a commercial local street. The Subdivider shall dedicate 84 feet of right-of-way and shall construct 64 feet of pavement, curb gutter and a five (5)-foot-wide sidewalk. The Subdivider shall also dedicate 92 feet of right-of way for a portion of Street B and shall construct, within 200 feet of the intersection with Otay Mesa Road, 72 feet of pavement (an 18-foot southbound lane, a four (4)-foot raised center median, two (2) 12-foot northbound left turn lanes, a 12-foot northbound through lane, a 14-foot northbound through lane and a 14-foot northbound right turn lane, with curb, gutter and a five (5)-foot-wide sidewalk transitioning to the aforementioned 84-foot right-of-way. Finally, the Subdivider shall construct, at the southern terminus of Street B, a 55-foot curb radius cul-de-sac within 65 feet of right-of-way, including curb, gutter and a five (5) -foot sidewalk.

42. Street C is classified as a commercial local street. The Subdivider shall dedicate 40 feet of right-of-way along with right-of-way for a 65-foot right-of-way radius for a cul-de-sac, and shall construct the half width of Street "C" including 30 feet of pavement, curb, gutter and a five (5)-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.
43. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of Street "B" with 64 feet curb to curb within 84 feet right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the city Engineer.
44. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of Street "B" within 200 feet of its intersection with Otay Mesa Road with 72 feet of curb to curb pavement (18' southbound lane, 4' raised center median, two 12' northbound left turn lanes, 12' northbound thru lane, 14' northbound right turn lane) within 92 feet of right-of-way including curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on both sides of the street transitioning to a 64 feet curb to curb width within 84 feet right-of-way with 55-foot curb radius cul-de-sac turnaround at the southern end within 65 feet right-of-way, satisfactory to the City Engineer.
45. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a second left turn lane on Otay Mesa Road at its intersection with Street "B", satisfactory to the City Engineer.
46. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a eastbound exclusive right turn lane with 500 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "B", satisfactory to the City Engineer.
47. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, modification of the existing traffic signal at the intersection of Otay Mesa Road / Street "B" in order to accommodate the improvements by this project at this intersection, satisfactory to the City Engineer.
48. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of private Street "A" between Street "B" and Street "C" with 50 feet of pavement within 70 feet of private general utility easement with curb, gutter and 5-foot sidewalk on both sides of the street and raised center median at both ends of the streets within 200 feet of intersection with Street "B" and Street "C", satisfactory to the City Engineer.
49. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of half width of Street "C" including 30 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance with 55-foot curb radius cul-de-sac turnaround at the southern end, satisfactory to the City Engineer.

50. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond construction of a eastbound exclusive right turn lane with 200 feet of storage and proper transition on Otay Mesa Road at its intersection with Street "C", satisfactory to the City Engineer.
51. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of second eastbound left turn lane and one exclusive westbound right turn lane at the intersection of Otay Mesa Road / Ocean View Hills Parkway, satisfactory to the City Engineer.
52. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of second westbound left turn lane at the intersection of Otay Mesa Road / Ocean View Hills Parkway, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
53. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of the second half (western half) of Street "C" to provide 60 feet of pavement, curb, gutter and 5-foot sidewalk within 10-foot curb to property line distance on the west side, satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
54. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a westbound left turn lane at the intersection of Otay Mesa Road / Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
55. Prior to the recordation of the first final map, Subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Otay Mesa Road / Street "C", satisfactory to the City Engineer. Subdivider may enter into a deferred improvement agreement with City of San Diego for this improvement.
56. Prior to the recordation of the first final map, Subdivider shall provide an Irrevocable Offer of Dedication (IOD) for half of the cul-de-sac on Street A at the western end of Camino Maquiladora with 55-foot curb radius turn around within 60 feet of right-of-way, satisfactory to the City Engineer.

**ENVIRONMENTAL:**

57. The Subdivider shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 99-0555, Project No. 3159, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for Land Use/Biological Resources/Historical Resources (Archaeology)/Water Quality.

**MSCP:**

58. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the issuance of this Permit hereby confers upon Subdivider the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 17, 1997 and on File in the Office of the City Clerk as Document No. 00-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Subdivider the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA; and (2) to assure Subdivider that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA.

If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Subdivider maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Subdivider of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

59. The Subdivider shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in the Environmental Documentation for the "Otay Mesa East Project" (Project No. 3159, SCH No. 2003051060), satisfactory to the City Manager and the City Engineer, for the following issues areas to ensure compliance with the MSCP and MHPA Land Use Adjacency Guidelines: Land Use, Biological Resources and Water Quality.

In addition, the following conditions shall apply:

Operational Noise: Prior to issuance of any building occupancy permits, the sewer pump station proposed adjacent to the existing Otay Mesa Road wildlife under crossing shall be constructed, to the satisfaction of the Development Services Department and the City Engineer, to ensure that operational noise does not impact wildlife movement, including: 1) designing the facility below-ground; 2) encasing it in concrete; 3) providing perimeter berms and native screening vegetation; and, 4) shielding/directing all necessary lighting away from the MHPA.

Edge Treatment: Prior to issuance of any building occupancy permits, the Subdivider shall construct a six-foot-high black vinyl-coated chain link fence along areas adjacent to the MHPA, including the rear of proposed Lot B, satisfactory to the Development Services Department and the City Engineer. The fencing shall be appropriately maintained at all times by the Subdivider. Any necessary future fence repairs shall be

conducted in a manner which does not result in impacts to sensitive biology resource or wildlife movement.

Drainage: Prior to recordation of the first final map and/or issuance of any grading permits, the Development Services Department and the City Engineer shall verify that on-site drainage for all lots, including proposed Lot B, is designed to avoid discharging into the on-site vernal pool watershed areas.

60. Prior to recordation of the first final map and/or issuance of any grading permits, the on-site MHPA shall be conserved and conveyed to the City's MHPA through either dedication in fee to the City, OR covenant of easement, which shall then be recorded on the property to the satisfaction of the City Attorney. All other areas of Lot B could be conveyed through any of the two above methods. Management of the on-site preserved MHPA shall be the responsibility of the Subdivider in perpetuity, unless the City accepts responsibility through dedication in fee title. \*Note: Any proposed dedication of land in fee to the City outside the MHPA would require approval from the Park and Recreation Department.

**INFORMATION:**

- The approval of this Vesting Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Vesting Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.

- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).