

ORDINANCE NUMBER O- 20305 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 01 2013

ITEM # 53c
10/1/13

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING VESTING TENTATIVE MAP NO. 1004468 AND RELATED PUBLIC RIGHT OF WAY AND PUBLIC SERVICE EASEMENT VACATIONS FOR THE CASTLEROCK PROJECT NO. 10046.

WHEREAS, Pardee Homes, Owner/Permittee, filed an application with the City of San Diego for a Vesting Tentative Map to subdivide a vacant 203.64-acre site for a residential development project, known as the Castlerock project, located on the north side of Mast Boulevard between Medina Drive and West Hills Parkway, and legally described as Portions of Lots 4, 5, 8, and 9 of the Resubdivision of a part of Fanita Rancho, Map No. 1703, within the East Elliott Community Plan area, in the RS-1-8 zone which is proposed to be rezoned to the RX-1-1, RM-2-4, and OC-1-1 zones; and

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

WHEREAS representatives of the City of San Diego, City of Santee, Padre Dam Municipal Water District, and Pardee Homes have negotiated an agreement, for the independent review and approval of public agency decision-makers, identifying the rights and duties of said parties that would facilitate orderly development of the Castlerock project described herein (“Annexation Agreement”); and

WHEREAS, the Castlerock project is a dual scenario project; the first scenario, the Annexation Scenario, proposes the subdivision of a 203.64-acre site into a 430-unit residential development with 283 detached single-family residences and 147 multi-family detached units

clustered on larger lots (referred to as green court units), approximately 4.0-acres (3.0 usable acres) of public parks, 0.64-acre (0.49-acre usable) of pocket parks, a multi-use trail, public streets and private driveways, and approximately 94-acres of open space (Exhibit A(1)). Under the Annexation Scenario, the project site would be detached from the City of San Diego, except for an approximately 94-acre open space area and annexed into the City of Santee's territory and the Padre Dam Municipal Water District (PDMWD) service district. In the event the City of Santee, PDMWD, or the San Diego Local Agency Formation Commission (LAFCO) does not approve the Annexation Scenario or the Annexation Scenario is terminated by failure of the City of Santee to approve the Annexation Agreement within 45 days of the City of San Diego's introduction of the ordinance approving the Annexation Agreement (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) or the failure of the Padre Dam Municipal Water District to approve the Annexation Agreement within 30 days of the latter of (i) the final passage of the ordinance approving the Annexation Agreement or (ii) the City of Santee's approval of the Annexation Agreement (or such dates as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District), or the City of Santee or the Padre Dam Municipal Water District's failure to adopt the Resolution of Application for Reorganization and Resolution of Support, respectively, within 60 days (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) of the Annexation Agreement effective date, the second scenario, the No Annexation Scenario goes into effect. The No Annexation Scenario proposes the subdivision of the 203.64-acre site into a 422-unit residential development with 282 detached single-family residences, 140 multi-family green court units, approximately 4.0-acres (3.0 usable) of public parks, 0.50-acre (0.39 acre usable) of pocket parks, a multi-use trail, public

streets and private driveways, approximately 94-acres of open space, and related on-site and off-site water and sewer infrastructure improvements (Exhibit A (2)); and

WHEREAS, on July 11, 2013, the Planning Commission of the City of San Diego considered Vesting Tentative Map (VTM) No. 1004468, including Public Right of Way Vacation No. 1004469, and Easement Vacation No. 1004471, and pursuant to Resolution No. 4533-PC voted to recommend approval of the VTM for the Annexation Scenario; and

WHEREAS, the matter was set for public hearing on September 16, 2013, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, on September 16, 2013, the City Council of the City of San Diego, as Lead Agency, certified that Environmental Impact Report (Project No. 10046/SCH No. 2004061029) (EIR) was prepared in accordance with the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) and the CEQA Guidelines, adopted CEQA Findings and a Statement of Overriding Consideration, and adopted a Mitigation Monitoring and Reporting program; and

WHEREAS, on September 16, 2013, the Council of the City of San Diego considered Vesting Tentative Map No.1004468, including Public Right of Way Vacation No. 1004469, and Easement Vacation No. 10044, and pursuant to San Diego Municipal Code sections 125.0440, 125.0430, 125.0941, 125.1040, and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the Council of the City of San Diego having fully considered the matter and being fully advised concerning the same; and

WHEREAS, under Charter section 280(a)(2) this ordinance 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 evidence presented; NOW, THEREFORE,

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

Section 1. That notwithstanding the tentative map expiration date in San Diego Municipal Code section 125.0460, the expiration date shall be as set forth in section 1 of the Conditions for Vesting Tentative Map No. 1004468, to allow for the LAFCO process to occur.

Section 2. That it adopts the following findings with respect to Vesting Tentative Map No.1004468 Exhibit A(1) and A(2):

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code § 125.0440(a) and Subdivision Map Action §§ 66473.5, 66474(a), and 66474(b)).

The two scenarios in the VTM allow 1) the subdivision of an approximately 203 acre site up to 292 lots for residential development, 1 public park lot, 21 lots for various Homeowners Association purposes such as slopes, private parks, and drainage facilities, and 5 lots for open space within the Multiple Habitat Planning Area (MHPA) established by the Multiple Species Conservation Program (MSCP), for the Annexation Scenario; or 2) the subdivision of an approximately 203 acre site into 291 lots for residential development, 1 public park lot, 21 lots for various Homeowners Association purposes such as slopes, private parks, and drainage facilities, 1 lot for a City of San Diego water tank, 1 lot for a pump station, and 6 lots for open space within the MHPA established by the MSCP, for the No Annexation Scenario. The development is consistent with the City of San Diego General Plan and the East Elliott Community Plan, which designates the area for residential use and MSCP open space. The project implements the goals and policies of these documents by creating a planned residential development that accommodates a portion of the housing needs within the community, providing up to 430 additional housing units, while minimizing the environmental impacts of the development and dedicating approximately 90-acres of land into the MHPA. The subdivision will retain the community character by encouraging orderly, sequential development compatible in its intensity with surrounding existing and future land development. Therefore, the proposed subdivision and its design and improvements are consistent with the policies, goals, and objectives of the applicable land use plan.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the land development code.

The design and proposed improvements for the subdivision are consistent with the zoning and development regulations of the RM-2-4, RX-1-1, and OC-1-1, zones in that:

1. All lots have minimum frontage on a dedicated street which is open to and usable by vehicle traffic, except where a deviation from frontage and driveway width has been allowed under the Planned Development Permit/Site Development Permit (PDP/SDP).
2. All lots meet the minimum lot area requirements of the RM-2-4, RX-1-1, and OC-1-1, zones, except where a deviation has been allowed under the PDP/SDP.
3. The development provides the required off-street vehicle parking spaces for the development, except where a deviation has been allowed under the PDP/SDP for the No Annexation scenario.
4. A deviation has been allowed to not provide the required loading zone in the RM-2-4 zone due to the single-family functionality of the multi-family residential units.
5. All lots are designed so that required improvements do not result in non-conforming lots in respect to building area, setbacks, side yards, and rear yard regulations, except where a deviation has been allowed under the PDP/SDP.
6. All lots meet the maximum height regulations for residential zones, except where a deviation for maximum height in the RX-1-1 zone has been allowed by the PDP/SDP.
7. Development of the site is controlled by PDP No. 19031, and SDP No. 19032.

The project has been designed to comply with the development regulations of the Land Development Code/Municipal Code (LDC/MC), including requirements for floor area ratio, street design, open space, grading, landscaping, etc., and all other requirements of the development criteria, except where deviations are allowed through the PDP/SDP.

3. The site is physically suitable for the type and density of development (San Diego Municipal Code § 125.0440(c) and Subdivision Map Act §§ 66474(c) and 66474(d)).

The site is physically suitable for residential development. The residential development is on a location and scale consistent with the East Elliott Community Plan, and is consistent in types and intensity of use with surrounding residential developments. The density does not exceed 500 units allowed by the East Elliott Community Plan and at up to 430 units; the density is only up to 14% below the 500 units allowed by the East Elliott Community Plan, thereby maintaining consistency with the goals and policies of the City General Plan Housing Element. The harmony in scale, height, bulk, density, and coverage of development creates a compatible physical relationship to surrounding properties for which this area has been planned and the residential properties in Santee. In addition, approximately 90-acres of open space would be dedicated as part of the proposed project will be contiguous with surrounding areas of the MHPA. As a result, the site is physically suitable for the design and siting of the proposed project and 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 (San Diego Municipal Code § 125.0440(d) and Subdivision Map Act § 66474(e)).

The City of San Diego completed the EIR in compliance with the California Environmental Quality Act which concluded that both scenarios would result in significant, but mitigable direct impacts associated with Land Use, Air Quality (construction emissions), Biological Resources (sensitive biological resources, plan consistency, and unexploded ordnance), Cultural/Historic Resources (archaeology), Human Health/Public Safety/Hazardous Materials (unexploded ordnance), Noise (traffic noise exposure), Paleontological Resources (unknown subsurface resources), and Transportation/Circulation (traffic/circulation). The No Annexation scenario would also result in an additional significant but mitigable direct impact associated with Noise (stationary noise) and a significant, but mitigable cumulative impact related to Public Facilities and Services. Implementation of the proposed Mitigation Monitoring and Reporting Program (MMRP) would reduce these environmental effects to below a level of significance. Both scenarios would result in significant unmitigated impacts related to Landform Alteration. Neither scenarios would have a significant impact to Greenhouse Gas Emissions under the City's 28% BAU (Business as Usual) threshold, but due to legal uncertainty in the State's implementation of its low carbon fuel standard program, the City is finding a significant unmitigated impact to GHG (Greenhouse Gas) and adopting a Statement of Overriding Consideration.

Implementation of the MMRP includes such measures as controls on runoff, noise, lighting and invasive plants, construction of appropriate barriers, landscaping, and implementation of brush management techniques in accordance with the City's LDC/MC and the Biology Guidelines. In addition, water quality measures and storm water detention facilities are incorporated into the project's design to avoid onsite or offsite impacts to fish or wildlife or their habitats to the maximum extent feasible. The project also includes sensitive habitat, sensitive species, plan consistency, and MSCP Multi-Habitat Planning Area boundary line adjustment mitigation in accordance with the City's LDC/MC and the Biology Guidelines.

The project will encroach into steep hillsides containing sensitive natural resources for which a request for deviation from the ESL Regulations has been separately submitted to the City. Despite the approval of such deviation, and the implementation by the Subdivider of the measures described in the request for deviation and the conditions contained in the MMRP, the impacts to visual and landform resources will remain a significant and unmitigated impact, and findings have been made pursuant to California Public Resources Code section 21081(a)(3), that specific economic, social, or other considerations make the mitigation measures or project alternatives identified in the EIR infeasible.

As such, with the implementation of these mitigation measures, under the Subdivision Map Act (Government Code 66474.01) and San Diego Municipal Code section 125.0441, the City may approve the Vesting Tentative Map notwithstanding any substantial environmental damage or substantially unavoidable injure fish or wildlife or their habitat by the design of the subdivision or proposed improvements.

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 66474(f)).

The design of the subdivision and the type of improvements will not be detrimental to the public health, safety, and welfare. The project, together with the existing surrounding land development (provision of roadways, utilities, drainage infrastructure, preservation of open space, etc.) in the East Elliott Community Plan area, has been designed to conform with a wide variety of the City of San Diego's codes, policies, and regulations whose primary focus is the protection of the public's health, safety and welfare. The single-family development contains conditions addressing the project compliance with the City's regulations and policies and other regional, state, and federal regulations to prevent detrimental impacts to the public health, safety, and welfare. Compliance with these regulations, along with permit conditions, the MMRP, and implementation of project design features would result in a project which does not adversely affect the public health, safety, and welfare.

The grading proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring, or any other geological instability, which would affect public health, safety and welfare in the opinion of the City Engineer. Existing potential landslide areas would be tested and remediated where required in the EIR and the MMRP. Flooding or severe scarring will not occur as a result of grading operations. Conditions included within the permit require the timely planting of all slopes to prevent erosion and to provide additional slope stability.

The potential presence of subsurface unexploded ordnances on the project site will be remediated through removal actions in accordance with a Removal Action Work Plan (RAWP). This plan will define safe removal strategies and methods to minimize impacts to the environment. Implementation of the RAWP and compliance with applicable regulations will reduce the risk of unexploded ordnances to future residents and neighboring properties.

Additionally, the project implements the MHPA within the East Elliott Community Plan Area while providing brush management zones consistent with the City of San Diego, LDC/MC requirements. All brush management at the Castlerock project will be conducted in a manner consistent with the Landscape Technical Manual, the City of San Diego approved alterative compliance, and the applicant's Fire Protection Plan included as a project design feature.

The project under both development scenarios will have adequate levels of essential public services available to it (including police, fire, and medical) through permit conditions within the SDP/PDP. Other services, such as schools, public parks and library resources, would be adequate for the project, as would necessary utilities such as electricity, water, and sewer. The project would pay its fair share of the cost of all of these services through impact fees, in-kind contributions, and/or tax increases, as described in the EIR.

The project, as conditioned, requires compliance with several operational constraints and development controls intended to assure the continued public health, safety, and welfare. Conditions of approval address lighting, the generation of noise, the appearance of landscaping, the placement of buildings, and BMPs for storm water impacts. All Uniform Building, Fire,

Plumbing, Electrical, Mechanical Code, and the Municipal Code regulations governing the construction and continued operation of the development apply to this site to prevent adverse effects to those persons or other properties in the vicinity. Prior to the actual construction of residential units on the subject property, City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing, and access components of the project are designed to protect the public's 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 (San Diego Municipal Code § 125.0440(f) and Subdivision Map Act § 66474(g)).

The design of the subdivision and the type of improvements are such that they will not conflict with any easements, acquired by the public at large, for access through or use of property within the proposed subdivision. All easements granted to the City over the property have been left in place or have been relocated and improved in a manner that allows for public access that is substantially equivalent to, and, in some cases, superior to the access formerly provided to the public by the unimproved easements, as reflected on the map and/or other easement relocation exhibit. This finding is further supported by the public easement and public right-of-way vacation findings, which are hereby incorporated by reference.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (San Diego Municipal Code § 125.0440(g) and Subdivision Map Act § 66473.1).

The proposed subdivision will not impede or inhibit any future passive or natural heating and cooling opportunities. The design of the subdivision has taken into account the best use of the land to minimize grading and preserving environmentally sensitive lands. Design guidelines have been adopted for the future construction of the single-family homes; however, they do not impede or inhibit any future passive or natural heating and cooling opportunities. With the independent design of the proposed subdivision each structure will provide to the extent feasible, for future passive or natural heating and cooling opportunities through use of building materials, site orientation, architectural treatments, placement and selection of plant materials that provide passive or natural heating and cooling opportunities.

For example, through its participation in the California Green Builder Program and the California Green Building Code, the project would be constructed with high performance energy efficient windows, improved insulation, radiant barriers and insulated attic ducts that minimize heat gains in the summer and heat losses in the winter. Combined, these design features and the proposed improvements for the subdivision are consistent with California Government Code Section 66473.1 and San Diego Municipal Code Section 125.0440(g) because they promote 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 (San Diego Municipal Code § 125.0440(h) and Subdivision Map Act § 66412.3).

The Castlerock project proposes to develop up to 430 dwelling units with a variety of lot sizes and to provide MHPA open space within the RM-2-4, RX-1-1, and OC-1-1 Zones and the East Elliott Community Plan, which encourages residential development at this location. The additional affordable dwelling units made possible by the project's compliance with the City's Inclusionary Housing Ordinance will contribute towards meeting the affordable housing needs of the region. These housing needs have been balanced against the need for public services. All appropriate public services (including fire, police, medical, schools, public parks, and libraries) as well as necessary utilities such as electricity, water, and sewer, will be available to and adequate for the project prior to occupancy. The effects of the proposed subdivision on the housing needs of the region has been considered, and those needs are balanced against the needs for public services and the available fiscal and environmental resources in conformance with the Subdivision Map Act Section 66412.3 and the San Diego Municipal Code Section 125.0440(h).

Section 3. That the above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

Section 4. That portions of sewer, slope, drainage, utility and other public easements as well as portions of right of way, located within the project boundaries as specifically identified in Vesting Tentative Map No.1004468, shall be vacated as Public Right of Way Vacation No. 1004469 and Public Easement Vacation No. 1004471, respectively, pursuant to Government Code section 66434(g) and San Diego Municipal Code sections 125.1040 and 125.0941 contingent upon the recordation of the approved Final Map for the project, and that the following findings are supported by the EIR, minutes, maps, staff reports, exhibits, project correspondence and the entire administrative record, all of which are herein incorporated by reference:

1. There is no present or prospective use for the easement, either for the facility or purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. (San Diego Municipal Code §125.1040(a)).

The, slope, sewer easements, utility and other non-road easements identified on sheet 3 of Vesting Tentative Map No. 1004468 (collectively "Public Service Easements") proposed to vacated are appropriate because they are part of an easement relocation plan that will allow for the reasonable development of the project while maintaining or improving the level of use for other landowners in the East Elliott Community Plan Area. The easement relocation plan will be stamped as a part of Exhibit A (1) and (2), on file with the City and depicted in the City of San Diego Staff Report prepared for the Castlerock Project.

These Public Service Easement were created by the federal government for access roads, slopes, and sewers to its surplus properties and were drawn without regard to topography or practical engineering design, but only to establish legal access and sewer service access to the parcels prior to their sale. The City accepted these road, slope, and utility easements through a series of resolutions in 1962, 1965, and 1967. The new location and dedication of the Public Service Easements will either continue to provide or improve reasonable use to the public facility and purpose for which the Public Service Easement was originally acquired, to the extent the purpose of the Public Service Easements still exist. Providing public utility and sewer to privately owned lots will continue under the proposed relocation plan. In addition, none of the Public Service Easements were constructed within the areas proposed for vacation. Therefore, there is no present or prospective use for the existing Public Service Easement, or for the facility for which they were originally acquired or for any other public use or a like nature that can be anticipated that requires it to remain in its current location.

2. The public will benefit from the abandonment through improved utilization of the land made available by the abandonment. (San Diego Municipal Code §125.1040(b)).

The vacation of the Public Service Easements will benefit the public through making additional land available for development in an orderly fashion.

The land made available by the vacation will be improved to provide additional housing capacity, providing up to 430 housing units, while preserving approximately 90-acres of land by including it in the MHPA. The project has been designed and will be developed in accordance with the intent of the East Elliott Community Plan to assure that the residential theme, architectural character, development considerations, and other functional concepts of the East Elliott Community Plan are implemented. The proposed project would also be consistent with the City's General Plan.

Development areas have been sited in response to a range of environmental considerations including steep slopes, and biological habitats. Revisions to the project have been incorporated into the design by blending manufactured slopes to the existing topography, by orienting the street and development pattern to be compatible with the natural topography of the land and by significantly reducing the boundaries of the proposed development through the use of retention walls.

Overall, the Castlerock project is designed to work with the natural environment and the site's topographic conditions to create pleasing neighborhoods while minimizing the environmental impacts of the development. Therefore, the public will benefit from the utilization of the vacated Public Service Easement area that makes the Castlerock project possible.

3. The abandonment is consistent with any applicable land use plan. (San Diego Municipal Code §125.1040(c)).

The proposed development is located within the area covered by the Elliott Community Plan adopted in April 1971, as amended by Resolution No. R-288465 in March 1997 (the "East Elliott Community Plan"), which is the applicable land use plan for the project area along with the City's General Plan. The East Elliott Community Plan lists residential development among

the allowable uses for the site. The project implements the goals and policies of these documents by creating a planned residential development that accommodates a portion of the housing needs within the community, providing up to 430 additional housing units, while minimizing the environmental impacts of the development and dedicating approximately 90-acres of land into the MHPA.

4. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment or the purpose for which the easement was acquired no longer exists. (San Diego Municipal Code §125.1040(d)).

The Public Easements proposed to be vacated are appropriate because they allow for the reasonable development of the project while maintaining or improving the level of access for other landowners in the East Elliott Community Planning Area. The public facility for which the Public Service Easement was originally acquired will not be detrimentally affected by the vacation because the new location and dedication of the Public Service Easements will either continue or improve the level of access and service to nearby properties, which is the purpose for which the easements were originally acquired. Providing reasonable legal rights to sewer and utility access to privately owned parcels in the East Elliott Community Planning Area will continue under the proposed relocation plan for the same reasons discussed in the finding above.

5. There is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. (San Diego Municipal Code §125.0941(a)).

The public road easements identified on the Vesting Tentative Map No. 1004468 (collectively “Public Road Easements”) proposed to vacated are appropriate because they will allow for the reasonable development of the project while maintaining or improving the level of access for other landowners in the East Elliott Community Planning Area. An easement relocation plan is on file with the City and depicted in the City of San Diego Staff Report prepared for the Castlerock Project.

During the period between 1962 and 1970, the federal government provided easements for access roads, slopes and sewers to these surplus properties to the City of San Diego; these easements were drawn without regard to topography or practical engineering design, but only to establish legal access and sewer service access to the parcels prior to their sale. The City accepted these road, slope, and utility easements through a series of resolutions in 1962, 1965, and 1967.

The new location and dedication of the Public Road Easements will either continue to provide or improve reasonable access to the public facility and purpose for which the Public Road Easements were originally acquired, to the extent the purpose of the Public Road Easements still exist. Providing public access to privately owned lots will continue under the proposed relocation plan. Although some parcel owners in the East Elliott Community Planning Area may need to drive slightly longer distances on the relocated Public Road Easements, often this will result in an improved level of service to those parcels. Few, if any, of the Public Road Easements have been developed or maintained by the City, due to the rugged terrain and lack of development on those parcels.

When the United States Government originally created the Public Road Easements in the 1960s, they were drawn for the convenience of establishing legal access to legal lots that only existed on paper. Known as "paper easements," they were drawn without regard to the physical terrain, sound engineering practices, biological habitat impacts, or the design of any specific development project. Some Public Road Easements enter the sides of steep slopes, sensitive habitats, or canyons where no civil engineer would have placed them if the purpose were to provide affordable, safe, and convenient access to developable lots. In contrast, the proposed easement relocation plan requires the developer, as a condition of the project, to construct an actual road within the project boundaries on which the public can travel, thus either maintaining or improving the level of service provided by the Public Road Easements.

In addition, no roads have been built on these easements. Therefore, there is no present or prospective use for the existing public right-of-ways, or for the facility for which they were originally acquired or for any other public use or a like nature that can be anticipated that requires it to remain at its current location.

6. The public will benefit from the vacation through improved use of the land made available by the vacation. (San Diego Municipal Code §125.0941(b)).

The vacation of the Public Road Easements will benefit the public because it makes possible the proposed project, which will add new residential units to the housing stock, include a public park, and dedicate approximately 90 acres into the MHPA.

The project has been designed and will be developed in accordance with the intent of the East Elliott Community Plan to assure that the residential theme, architectural character, development considerations, and other functional concepts of the East Elliott Community Plan are implemented. The proposed project would also be consistent with the City's General Plan.

Development areas have been sited in response to a range of environmental considerations including steep slopes and biological habitats. Revisions to the project have been incorporated into the design by blending manufactured slopes to the existing topography, by orienting the street and development pattern to be compatible with the natural topography of the land and by significantly reducing the boundaries of the proposed development through the use of retention walls.

Overall, the Castlerock project is designed to work with the natural environment and the site's topographic conditions to create pleasing neighborhoods while minimizing the environmental impacts of the development. Therefore, the public will benefit from the proposed use of the vacated Easement area that makes the project possible.

7. The vacation does not adversely affect any applicable land use plan. (San Diego Municipal Code §125.0941(c)).

The proposed development is located within the area covered by the Elliott Community Plan adopted in April 1971, as amended by Resolution No. R-288465 in March 1997 (the "East Elliott Community Plan"); which is the applicable land use plan for the project area along with

the City's General Plan. The East Elliott Community Plan lists residential development among the allowable uses for the site. The project implements the goals and policies of these documents by creating a planned residential development that accommodates a portion of the housing needs within the community, providing up to 430 additional housing units, while minimizing the environmental impacts of the development and dedicating approximately 90 acres of land into the MHPA.

The project provides more acres of MHPA land than anticipated in the Community Plan while including up to 430 dwelling units where up to 500 dwelling units were planned. The proposed Castlerock project has been designed to be consistent with the East Elliott Community Plan (as amended by the proposed Amendment thereto) and the City's General Plan and implements their plans, goals, and policies, and therefore will not adversely affect the applicable land use plan. The project's overall consistency with applicable land use plans is analyzed in further detail in the Project EIR's land use section and other sections, which are herein incorporated by reference. The Public Road Easement vacations are necessary to construct this project, and therefore the vacations do not adversely affect (and are consistent with) the applicable land use plan.

8. The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation. (San Diego Municipal Code §125.0941(d)).

The Public Road Easements proposed to be vacated are justified because they are part of an easement relocation plan that will allow for the reasonable development of the project while maintaining or improving the level of access for other landowners in the East Elliott Community Planning Area. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation because the new location and dedication of the Public Road Easements will either continue or improve the level of access and service to nearby properties, which is the purpose for which the easements were originally acquired. Providing reasonable public access to privately owned parcels in the East Elliott Community Planning Area will continue under the proposed relocation plan for the same reasons discussed in the finding above.

In addition, none of the Public Road Easements were actually constructed within the areas proposed for vacation so their usefulness to the public either remains the same or is improved by the relocation. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

Section 5. That based on the Findings hereinbefore adopted by the Council of the City of San Diego, Vesting Tentative Map No. 1004468, including Public Right of Way Vacation No. 1004469, and Easement Vacation No. 1004471, are hereby granted to Pardee Homes, subject to the attached conditions which are made a part of this Ordinance by this reference.

Section 6. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 7. That Exhibit A(1) shall take effect only upon a final decision by the Local Agency Formation Commission to grant the proposed Reorganization, but not less than thirty days from and after its final passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of final passage of this ordinance.

Section 8. That Exhibit A(2) shall take effect only upon a final decision by the Local Agency Formation Commission to deny the proposed Reorganization or either failure of the City of Santee to approve the Annexation Agreement within 45 days (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) of the City of San Diego's introduction of an ordinance approving the Annexation Agreement or the failure of Padre Dam Municipal Water District to approve the Annexation Agreement within 30 days of the latter of (i) the final passage of the City of San Diego ordinance approving the Annexation Agreement or (ii) the City of Santee's approval of the Annexation Agreement (or such dates as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District), or the City of Santee or the Padre Dam Municipal Water District's failure to adopt the Resolution of Application for Reorganization and Resolution of Support, respectively, within 60 days (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) of the Annexation Agreement effective date,

and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of final passage of this ordinance.

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APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

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SMT:als
08/23/13
Or.Dept:DSD
Doc. No. 621479

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Attachment: Vesting Tentative Map Conditions

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CITY COUNCIL

CONDITIONS FOR VESTING TENTATIVE MAP NO.1004468, AND RELATED PUBLIC RIGHT OF WAY AND PUBLIC SERVICE EASEMENT VACATIONS FOR THE CASTLEROCK PROJECT NO. 10046.

ADOPTED BY ORDINANCE NO. O- 20305 (NEW SERIES), ON OCT 01 2013

GENERAL

1. If the City of Santee approves the Annexation Agreement within 45 days of [INSERT DATE OF INTRODUCTION OF CITY OF SAN DIEGO ORDINANCE SEP 16 2013 O- 20306, APPROVING ANNEXATION AGREEMENT] (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) and Padre Dam Municipal Water District approves the Annexation Agreement within 30 days of the latter of (i) the final passage of the City of San Diego ordinance approving the Annexation Agreement [INSERT DATE OF FINAL PASSAGE OF CITY OF SAN DIEGO ORDINANCE O- 20306, APPROVING ANNEXATION AGREEMENT] or (ii) the City of Santee's approval of the Annexation Agreement (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District), then the utilization period for this Vesting Tentative Map is tolled for five years from the [INSERT DATE OF FINAL PASSAGE OF CITY OF SAN DIEGO ORDINANCE O- 20305, approving the Vesting Tentative Map] or until a Local Agency Formation Commission final decision on the Reorganization occurs, whichever is earlier. This Vesting Tentative Map will expire three years after the tolling period ends, absent further legal basis for extension under the Subdivision Map Act. If the City of Santee or Padre Dam Municipal Water District fail to approve the Annexation Agreement within the 45 day or 30 day period respectively, or fail to approve a Resolution of Application for Reorganization and Resolution of Support, respectively, within 60 days (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) of the Annexation Agreement effective date, then this Vesting Tentative Map shall expire ~~three~~ three years from [INSERT DATE OF FINAL PASSAGE OF CITY OF SAN DIEGO ORDINANCE O- 20306, APPROVING ANNEXATION AGREEMENT] absent further legal basis for extension under the Subdivision Map Act.

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2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City of San Diego Engineer, prior to the recordation of the Final Map unless otherwise noted.
3. Prior to the recordation of Final Maps (5), 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.

4. The Final Maps shall conform to the provisions of Site Development Permit No. 19032 and Planned Development Permit No. 19031.
5. With payment of San Diego processing fees, Subdivider may process and complete all requirements necessary for a final map. However, San Diego shall only approve a final map, under the following circumstances:
 - (a) Upon the Approval of Reorganization by LAFCO, and upon satisfaction of all requirements for obtaining a final map, and upon execution by Pardee of Padre Dam's Contract to Make, Install and Complete Water and/or Sewer Facilities setting forth Padre Dam's requirements for installation of water, wastewater and or recycled water facilities, and submission to Padre Dam of a satisfactory faithful performance bond, San Diego may approve the final map, for the Annexation Scenario.
 - (b) If LAFCO fails to approve the Reorganization or the Annexation Agreement is terminated by the failure of the City of Santee to approve the Annexation Agreement within 45 days (or such date as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District) of the City of San Diego's introduction of an ordinance approving the Annexation Agreement or the failure of Padre Dam Municipal Water District to approve the Annexation Agreement within 30 days of the latter of (i) the final passage of the City of San Diego ordinance approving the Annexation Agreement or (ii) the City of Santee's approval of the Annexation Agreement (or such dates as extended by mutual written consent of the City of San Diego, City of Santee, Pardee Homes, and Padre Dam Municipal Water District), or the City of Santee or the Padre Dam Municipal Water District's failure to adopt the Resolution of Application for Reorganization and Resolution of Support, respectively, pursuant to Section 4.1 of the Annexation Agreement, then upon satisfaction of all requirements for obtaining a final map, San Diego may consider approval of the final map for the No Annexation Scenario in accordance with City of San Diego procedures.
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.

FIRE PROTECTION

7. If the project is not annexed to the City of Santee, then prior to issuance of the first building permit for any dwelling units within the project, the applicant shall have demonstrated, to the satisfaction of the San Diego Fire-Rescue Department and the Director of the Development Services Department that fire protection services and emergency medical services shall be provided to all dwelling units within the project via an irrevocable agreement with Santee to provide these services or an equivalent alternative.

ENGINEERING

8. Pursuant to City Council Policy 600-20, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
9. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision, excepting services to and from the existing San Diego Gas and Electric substation.
10. The Subdivider shall ensure that all existing on-site utilities, excepting services to and from the existing San Diego Gas and Electric substation, 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 of San Diego Engineer.
11. 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 of San Diego Clerk as Document No. RR-297376.
12. This is a phased development consisting of five Map Units which may be filed as appropriate for the orderly development of the project, consistent with the requirements of the State Subdivision Map Act and local Ordinances applicable to the City of San Diego.

MAPPING

13. "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 [NAD83].
14. Pursuant to California Government Code section 66434 (g), the following right-of-ways and public service easements, located within the project boundaries as shown in Vesting Tentative Map No. 19030, shall be vacated, contingent upon the recordation of the approved Map for the project:

- a. Portions of the public road easement per document recorded June 7, 1965 as File No. 101350.
 - b. Portions of the public road easements per Miscellaneous Map No. 465, document recorded February 15, 1965, as File No. 26326.
 - c. Portions of the public road easements per document recorded May 3, 1966, as File No. 74588.
 - d. Sewer easements 2, 3 and 4 per document recorded July 6, 1965, as File No. 120547.
15. There is a portion of Street "E" that is off-site of the VTM, but within an existing Public Road Easement per Misc. Map 465. An off-site dedication drawing will be required to be approved and the improvements bonded for at the time of Final Map approval.
16. "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."
17. The Final Maps 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.

PUBLIC UTILITIES

18. Prior to the approval of any public improvement drawings, the Subdivider shall provide an acceptable water study satisfactory to the City of San Diego Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the annexation is approved. The Subdivider will be responsible for installing all water facilities, as required by the approved water study, necessary to serve this development. Water facilities shown on the approved Vesting Tentative Map may require modification based on the accepted water study. The study shall include redundancy throughout construction phasing. If phasing of the development is proposed, then a phasing plan shall be included in the studies.

19. The Subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.) for all public water facilities that are not located within fully improved public right-of-ways, satisfactory to the City of San Diego Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved. Easements shall be located within singles lots, when possible, and not split longitudinally. Vehicular access roadbeds shall be a minimum of 24 feet wide and surfaced with suitable approved material satisfactory to the City of San Diego, Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved.
20. The Subdivider shall install fire hydrants at locations satisfactory to the City of San Diego Fire Marshal, and the City of San Diego, Director of the Public Utilities Department if the Reorganization is not approved, or the City of Santee Fire Chief and Padre Dam Municipal Water District if the Reorganization is approved. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead-end water main then the Subdivider shall install a redundant water system satisfactory to the City of San Diego, Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved.
21. The Subdivider shall process encroachment maintenance and removal agreements, for all acceptable encroachments into the water easement, including but not limited to structures, enhanced paving, or landscaping. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.
22. The Subdivider shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the City of San Diego, Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved.
23. The Subdivider shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the City of San Diego, Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved.
24. The Subdivider shall provide a 10 feet minimum (edge to edge) separation between water and sewer main and provide a 5 feet minimum separation between water main and face of curb per City of San Diego, Water and Sewer Design Guide standards if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved, except as noted on Exhibits A(1) and A(2).
25. The Subdivider shall design and construct all proposed public water facilities in accordance with established criteria in the current edition of the City of San Diego

Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices, if the Reorganization is approved. In the event that Reorganization is not approved, a public water tank and access road shall be provided by the Subdivider on Lot 'Y' which will be conveyed to the City of San Diego Public Utilities Department in fee, as shown on Exhibit A(2) to the satisfaction of the City of San Diego Director of the Public Utilities Department and the City of San Diego Engineer. Construction of the facility shall be assured by permit and bond prior to the issuance of the first Final Map.

26. Prior to the issuance of the first Final Map, the Subdivider shall assure by permit and bond the construction of sewer facilities, as shown on Exhibits A(1) and A(2), to the satisfaction of the City of San Diego Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved.
27. Prior to the issuance of each Final Map, the Subdivider shall assure sewer and access easements for the construction of sewer facilities within or necessary for said Final Map, as shown on Exhibits A(1) and A(2), to the satisfaction of the City of San Diego Director of the Public Utilities Department if the Reorganization is not approved, or Padre Dam Municipal Water District standards and practices if the Reorganization is approved.
28. In the event Reorganization does not occur, a private sewer lift station will be provided by the Subdivider on Lot 'X', as shown on Exhibit A(2) to the satisfaction of the City of San Diego Director of the Public Utilities Department and the City of San Diego Engineer. Construction of the facility shall be assured by permit and bond prior to the issuance of the first Final Map.

GEOLOGY

29. 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

30. Prior to the recordation of each Final Map, the Subdivider shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are (a) outside the allowable development area on the premises as shown on Exhibits A(1) and A(2) and (b) outside of the open space lands to be dedicated to the City of San Diego pursuant to the MSCP Condition herein, for open space, 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 Exhibits A(1) and A(2).

LANDSCAPE/BRUSH MANAGEMENT

31. Prior to the recordation of each Final Map, the Subdivider or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within the public right-of-way area consistent with Exhibits A(1) and A(2). The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recordation of each Final Map.

PARKS AND RECREATION

32. Prior to the issuance of the first final map, the Subdivider shall record a multi-use access easement over the emergency easement at Mona Kia Lane.
33. Prior to the issuance of each final map, the Subdivider shall record a public access easement over all multi-use trails on private property. All public access easements for trail purposes shall be maintained by the property owner or landscape maintenance district.
34. The Subdivider shall ensure that all remedial grading and associated infrastructure are privately owned and maintained.
35. Lot "A-A" shall be privately owned and used for vernal pool restoration and management purposes, to be maintained by a third party, acceptable to the City of San Diego Development Services Department.
36. Prior to the issuance of each final map, the Subdivider shall place a Recreation Easement for Recreation Lots over all private park areas to allow for public access. These private park areas shall be maintained by the property owner or landscape maintenance district.
37. To the extent consistent with MSCP Condition herein, prior to the issuance of each final map, the Subdivider shall ensure that the lot(s) to be deeded to the city as open space are free and clear of all private easements (other than pre-existing easements shown on the approved VTM permit), private encroachments, private agreements and/or liens.

TRANSPORTATION

38. Prior to recordation of the first Final Map, the Subdivider shall dedicate additional right-of-way along Mast Boulevard easterly of Street A, for an exclusive right turn lane into the project, as shown on Exhibits A(1) and A(2).
39. Prior to recordation of the first Final Map, the Subdivider shall assure, by permit and bond, the construction of a traffic signal at the intersection of Mast Boulevard and Street A, satisfactory to the City of San Diego Engineer.
40. Prior to recordation of the first Final Map, the Subdivider shall assure, by permit and bond, the construction of a traffic signal at the intersection of Mast Boulevard and West Hills High School Driveway (West Access), satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).

41. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of Street A at the intersection of Mast Boulevard as a two-lane collector with curb-to-curb width of 55' (19' inbound, 2' of painted median, 10' left turn, 10' shared left+thru and 14' exclusive right turn) within 85' of right-of-way (15' parkway on each side), satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).
42. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of Street A from Private Driveway A to Street B as a two-lane collector with curb to curb width of 36' within 66' of right-of-way (15' parkway on each side), satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).
43. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of Street A from Street B to Street C as a two-lane local residential street with 34' curb to curb width within 58' of right-of-way (12' parkway on each side), with appropriate transitions to a local residential street with 32' curb-to-curb width within 56' of right-of-way (12' parkways on each side), satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).
44. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction Street E as a two-lane collector street with curb to curb width of 36' within 60' of right-of-way (12' parkway on each side), satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).
45. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of Streets B, C, D, F, and G as a two-lane local residential streets with curb to curb width of 32' within 56' of right-of-way (12' parkway on each side), satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).
46. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of the cul-de-sacs at the end of Street D, E, F, and G with a minimum curb radius of 50' within 62' of right-of-way satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).
47. Prior to recordation of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of Private Drive A with a minimum pavement width of 24', but shall be 26' within 20' of fire hydrant, satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).

48. Prior to issuance of the Final Map that includes this roadway as a necessary component of circulation, the Subdivider shall assure, by permit and bond, the construction of Private Drive B with a minimum pavement width of 24', but shall be 26' within 20' of fire hydrant, satisfactory to the City of San Diego Engineer, as shown on Exhibits A(1) and A(2).

MSCP

49. The Subdivider shall grant fee title to the on-site Multiple Habitat Planning Area (MHPA) open space lots (Lots N, O, P, U, and V) to the City of San Diego's Multiple Species Conservation Program (MSCP) preserve through an irrevocable offer of dedication (IOD) on each final map to subdivide on-site MHPA open space. The City shall record a certificate of acceptance of the IOD prior to issuance of a Construction Permit for such final map and upon the following (1) Subdivider obtains approval of the City of San Diego, Development Services Department, the Park & Recreation Department, and the Wildlife Agencies that the restoration areas have been restored; (2) Park & Recreation Department confirmation that, unless permitted by the City of San Diego, MSCP Subarea Plan or Implementing Agreement, the open space lots exclude detention basins, other storm water control facilities, any subsurface drainage infrastructure as part of the landslide stabilization, brush management areas, manufactured slopes and landscape/revegetation areas (except the Project's revegetated/manufactured slopes associated with the potential landslide area); (3) Subdivider ensures that the open space lots are free and clear of all private easements, private encroachments, private agreement and/or liens (or has provided the City security against such encumbrances); and (4) Subdivider has scheduled an inspection of the open space lots with the Park & Recreation Department, Open Space Division to confirm any trash, illegal use, and illegal structures have been removed. Recordation of each final map with the IOD creates a covenant that runs with the land, binding all successors and assigns, burdening the open space lots from the date the final map is recorded and IOD are recorded, with the exception of activities required to facilitate the City's acceptance of the IOD stated herein. It is understood and agreed that the City of San Diego and its successors and assigns shall incur no liability with respect to the IOD, and shall not assume any responsibility for the open space lots or any improvements thereon, until the IOD is accepted. The City may not permit the general public to access the open space lots or trails therein prior to City acceptance of the IOD.

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 of San Diego 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 of San Diego

regulations, standards and practices pertaining thereto, if Reorganization is not approved, or the Padre Dam Municipal Water District standards and practices if the Reorganization is approved. Off-site improvements analyzed in the EIR 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. If the Reorganization is approved, Subdivider shall satisfy this requirement through payment of Santee development impact fees identified in the Annexation Agreement.
- 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 of San Diego, 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 of San Diego Engineer (San Diego Municipal Code § 142.0607).
- The Owner/Permittee may request that the City of San Diego establish a means of collecting reimbursement (funding mechanism) from developers of other property for the Owner/Permittee's cost of installing public improvements which are of greater size, length or capacity greater than needed to serve or mitigate the impacts of development of the project and which will serve such other property or for other property that has an obligation to construct such public improvements. "Funding mechanism" means a cost reimbursement district, reimbursement agreement, assessment district, community facilities district, infrastructure financing district, conditions of approval of land use entitlements of any benefiting developer or property owner, or any other financing mechanism available for collecting reimbursement from other developers. If the improvement is included in the East Elliott Public Facilities Financing Plan (EPPFFP), Owner/Permittee may elect to be reimbursed from development impact fees collected from other properties located within the EPPFFP, reimbursement may be in the form of either cash or credit against the Owner/Permittee's payment of EPPFFP fees at the time the fees would otherwise be due and payable to the City.

Passed by the Council of The City of San Diego on OCT 01 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<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"/>
Todd Gloria	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 01 2013

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Donnette Spits*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

SEP 16 2013

and on OCT 01 2013

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Donnette Spits*, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20305