

ORDINANCE NUMBER O- **20417** (NEW SERIES)

DATE OF FINAL PASSAGE OCT 14 2014

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO TO AUTHORIZE A REIMBURSEMENT AGREEMENT WITH BLACK MOUNTAIN RANCH LLC AND BMR CONSTRUCTION, INC. FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN BLACK MOUNTAIN RANCH AND SURROUNDING AREAS, AND WAIVE SAN DIEGO MUNICIPAL CODE SECTION 22.3202 AND COUNCIL POLICIES 300-07 AND 100-10.

WHEREAS, Black Mountain Ranch LLC and BMR Construction, Inc. (BMR LLC) are the master developers of approximately 967.5 acres of real property located in the Black Mountain Ranch Subarea Plan; and this property is located within the boundaries of the Fiscal Year 2013 Black Mountain Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, adopted on October 25, 2012, by Resolution No. R-307790 (BMR Financing Plan), and is located adjacent to the boundaries of the Fiscal Year 2013 Torrey Highlands Public Facilities Financing Plan, adopted on November 27, 2012, by Resolution No. R-307857 (TH Financing Plan), and Fiscal Year 2013 Pacific Highlands Ranch Public Facilities Financing Plan, adopted on April 23, 2012, by Resolution No. R-307364 (PHR Financing Plan); and

WHEREAS, BMR LLC's development agreement, vesting tentative map conditions, and various other permit conditions, as more specifically set forth in the Reimbursement Agreement No. 1038991 with Black Mountain Ranch LLC and BMR Construction, Inc. for Public Facilities in the Black Mountain Ranch Subarea Plan (Agreement), and the Transportation Phasing Plan contained in the BMR Financing Plan, all require BMR LLC to advance substantial public facilities to serve the Black Mountain Ranch community and the surrounding communities of Torrey Highlands and Pacific Highlands Ranch; and

WHEREAS, the various public facilities set forth in the Agreement are identified and included in the BMR Financing Plan, TH Financing Plan and PHR Financing Plan; NOW, THEREFORE,

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

Section 1. That the Mayor or his designee is authorized and directed to execute, for and on behalf of City, the Reimbursement Agreement No. 1038991 with Black Mountain Ranch LLC and BMR Construction, Inc. for Public Facilities in the Black Mountain Ranch Subarea Plan, on file in the Office of the City Clerk as Document No. OO- 20417, for the design and construction of various public facilities under the terms and conditions set forth in the Agreement.

Section 2. That San Diego Municipal Code section 22.3202, and Council Policies 300-07 and 100-10, are waived with respect to Rick Engineering, Wimmer Yamada and Caughey, RECON Environmental, Inc., Geocon Incorporated, KOA Corporation, Q2 Services, Utility Specialists California, Inc., Latitude 33 Planning & Engineering, and Project Design Consultants, all with whom BMR LLC entered into a contract for the public facilities that are the subject of the Agreement prior to the effective date of the Agreement.

Section 3. That the Chief Financial Officer is authorized to add CIP RD-15000, Camino Del Sur - 2 lanes (Torrey Santa Fe to Dormouse Rd), to the Fiscal Year 2015 Capital Improvements Program.

Section 4. That The Chief Financial Officer is authorized to add CIP RD-15001, Carmel Valley Rd Widening (Camino Del Sur to Black Mountain Rd), to the FY 2015 Capital Improvements Program.

Section 5. That the Chief Financial Officer is authorized to increase the Fiscal Year 2015 Capital Improvements Program Budget in CIP RD-15000, Camino Del Sur - 2 lanes (Torrey Santa Fe to Dormouse Rd) and appropriate and expend an amount not to exceed \$724,500 from Fund 400094, Torrey Highlands FBA, for the purpose of designing this public improvement, consistent with the terms and conditions set forth in the Agreement and the timing established in the most recently adopted TH Financing Plan, and contingent upon the adoption of the Fiscal Year 2015 Appropriation Ordinance and further contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Section 6. That the Chief Financial Officer is authorized to increase the Fiscal Year 2015 Capital Improvements Program Budget in CIP RD-15001, Carmel Valley Rd Widening (Camino Del Sur to Black Mountain Rd) and appropriate and expend an amount not to exceed \$1,774,058 from Fund 400094, Torrey Highlands FBA, for the purpose of constructing this public improvement, consistent with the terms and conditions set forth in the Agreement and the timing established in the most recently adopted TH Financing Plan, and contingent upon the adoption of the Fiscal Year 2015 Appropriation Ordinance and further contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

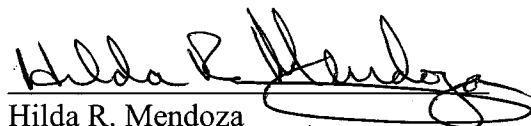
Section 7. That the Chief Financial Officer is authorized to appropriate and expend an amount not to exceed \$11,757,961, for the Widening of Via de la Valle from Camino Real to San Andres Drive, consistent with the terms and conditions set forth in the Agreement and the timing established in the most recently adopted BMR Financing Plan, and contingent upon the Chief

Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Section 8. That the Chief Financial Officer is authorized, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Hilda R. Mendoza
Deputy City Attorney

HRM:meb

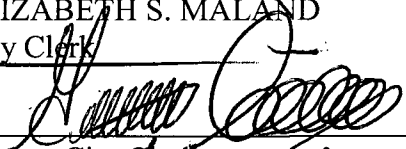
8/7/2014

Or.Dept:Planning

Doc. No.: 837057

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of ~~SEP 30 2014~~.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/14/14
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on SEP 30 2014, 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"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 14 2014

AUTHENTICATED BY: KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], 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 2014, and on OCT 14 2014

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 [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 20417