

RESOLUTION NUMBER R- 311780

DATE OF FINAL PASSAGE MAY 22 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION OF THE AGREEMENT ESTABLISHING ENDOWMENT FUND FOR MAINTENANCE OF CONSERVED LAND WITH SEA BREEZE 56, LLC AND ESTABLISHING A PERMANENT ENDOWMENT FUND IN AN AMOUNT OF NOT LESS THAN \$427,091.10.

WHEREAS, Sea Breeze 56, LLC (Sea Breeze) desires to construct a mixed-use development (Project) on a 72.34 acre site located south of State Route 56, between Camino Del Sur and Black Mountain Road, and for the construction of roadway extensions of Camino Del Sur and Carmel Mountain Road in the Del Mar Mesa, Torrey Highlands-Subarea IV and the Rancho Penasquitos Community Plan areas in the City of San Diego (City); and

WHEREAS, consistent with the Merge 56 Development Project Final Environmental Report [SCH # 2014071065] (FEIR) for the Project, Sea Breeze intends to implement the Project that will require state and federal agency permit(s) to mitigate for impacts to vernal pools (collectively, the Permits) on City-owned property located within the Del Mar Mesa Open Space, APN 308-020-19 (Property); and

WHEREAS, the Property is within the City's Multiple Species Conservation Program (MSCP) Multi-Habitat Planning Area (MHPA) and managed by the Open Space Division of the Parks and Recreation Department of the City; and

WHEREAS, the City is already required to maintain the Property for conservation purposes in accordance with the Implementing Agreement by and between United States Fish and Wildlife Service, California Department of Fish and Game, and the City of San Diego to Establish a Multiple Species Conservation Program for the Conservation of Threatened,

Endangered and Other Species in the Vicinity of San Diego, California (MSCP Implementing Agreement); and

WHEREAS, pursuant to the Permits and the FEIR, an endowment is required to be established to fund the management, maintenance, and monitoring of the Property in perpetuity due to the creation of the vernal pool complex; and

WHEREAS, in order to administer the funds a permanent endowment fund is proposed to be established; and

WHEREAS, under San Diego 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 City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor, or his designee, is authorized and directed to execute, for and on behalf of the City, the Agreement Establishing Endowment Fund for Maintenance of Conserved Land, on file in the Office of the City Clerk as Document No. RR- 311780, under the terms and conditions set forth therein.

BE IT FURTHER RESOLVED, that the Mayor, or his designee, is authorized to amend the Agreement Establishing Endowment Fund for Maintenance of Conserved Land, on file in the Office of the City Clerk as Document No. RR- 311780 , to state the amount of the endowment fund necessary to manage, maintain, and monitor the Property in perpetuity, but in no event in an amount less than \$427,091.10.

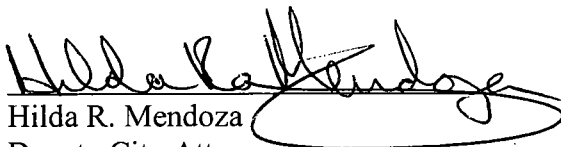
BE IT FURTHER RESOLVED, that the City hereby accepts the payment of not less than \$427,091.10 from Sea Breeze 56, LLC.

BE IT FURTHER RESOLVED, that the Office of the City Comptroller is hereby directed to establish a permanent endowment fund, in a separate income-generating fund, in an amount not less than \$427,091.10, paid by Sea Breeze 56, LLC pursuant to the Agreement Establishing Endowment Fund for Maintenance of Conserved Land, to be transferred to the supervision and control of the City of San Diego Funds Commission pursuant to City Charter section 41(a).

BE IT FURTHER RESOLVED, that the income from the permanent endowment fund as established above be used solely and exclusively for the purposes of managing, maintaining and monitoring the Property in perpetuity by the City pursuant to the Permits, FEIR, and the MSCP Implementing Agreement.

BE IT FURTHER RESOLVED, that this resolution shall take effect and be in force upon final approval of the resolution granting Planned Development Permit No. 1266871, Site Development Permit No. 1266883, and Conditional Use Permit No. 1266881 for the Project, on file in the Office of the City Clerk as Document No. RR- 311777, but in no event earlier than the day of this resolution's final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Hilda R. Mendoza  
Deputy City Attorney

HRM:nja  
05/02/18  
Or.Dept: Park & Rec  
Doc. No.: 1738963

Passed by the Council of The City of San Diego on MAY 22 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
Chris Cate	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

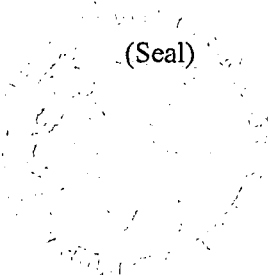
Date of final passage MAY 22 2018

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

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



(Seal)

By Linda Brwin, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 311780