

RESOLUTION NUMBER 312894

DATE OF FINAL PASSAGE MAR 13 2020

ITEM # 325C  
3/10/20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE EXECUTION OF AN INDEMNIFICATION AGREEMENT WITH THE COUNTY OF SAN DIEGO REGARDING THE MT. ETNA PROJECT- PROJECT NO. 628374.

WHEREAS, on March 13, 2019, the County of San Diego submitted a Community Plan and General Plan Amendment, San Diego Municipal Code Amendment and Local Coastal Program Amendment, and Rezone Project (Project) application to the Development Services Department to allow for future residential development on surplus County-owned land on a 4.09 acre site located at 5255 Mount Etna Drive; and

WHEREAS, the site is legally described as Parcel 1 of Parcel Map No. 9284, in the City of San Diego, County of San Diego, State of California, according to the Map thereof filed in the Office of the County Recorder of San Diego County on October 23, 1979, as File No. 79-443936 of official records; and

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 Indemnification Agreement Regarding General Plan, Community Plan, San Diego Municipal Code and Local Coastal Program Amendments, Rezone and Environmental Review of the Mount Etna Drive Project No. 628374, on file in the Office of the City Clerk as Document No.

RR- 312894.

APPROVED: MARA W. ELLIOTT, City Attorney

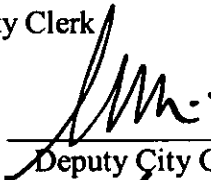
By Lindsey H. Sebastian  
Lindsey H. Sebastian  
Deputy City Attorney

LJS:als  
02/20/2020  
03/06/2020 Cor. Copy  
Or.Dept:DSD  
Doc. No.: 2317213\_2

Attachment: Indemnification Agreement

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 10 2020.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 3/13/2020  
(date)

  
KEVIN L. FAULCONER, Mayor

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

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

**INDEMNIFICATION AGREEMENT REGARDING DISCRETIONARY ACTIONS FOR  
AND ENVIRONMENTAL REVIEW OF THE MT. ETNA – PROJECT NO. 628374**

This Indemnification Agreement (Agreement) is made by and between the City of San Diego (City) and the County of San Diego (Applicant), collectively referred to as “the Parties.” Applicant is seeking approval from City for various entitlements, including, but not limited to, Rezone No. \_\_\_\_\_, San Diego Municipal Code Amendment and Local Coastal Program Amendment, and General Plan and Community Plan Amendment No. \_\_\_\_\_, for the Mount Etna Drive CPA and Rezone Project No. 628374 (Project).

The Parties hereby agree as follows:

1. With respect to all of the approvals related to the Project, Applicant shall defend, indemnify, and hold harmless the City, including its agents, officers, and employees (together, “Indemnified Parties”), from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney’s fees, against the City and/or any Indemnified Parties, relating to the City’s actions in processing or issuing of any permits, approvals or entitlements for the Project including, but not limited to, any action to attack, set aside, void, challenge, or annul any development approvals and any environmental document or decision associated with the Project. The City shall promptly notify Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, and Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney’s fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, City shall have the authority to control the litigation and make litigation-related decisions, including, but not limited to, settlement or other disposition of the matter. However, Applicant shall not be required to pay or perform any settlement unless such settlement is approved by Applicant.
2. The Parties agree that the obligations of this Agreement are effective upon execution of this Agreement by the Parties and that such obligations shall survive any invalidation of the entitlements, environmental documents, or any other approvals associated with the Project.

**APPLICANT, COUNTY OF SAN DIEGO**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY, THE CITY OF SAN DIEGO, a California municipal corporation**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
MARA ELLIOT, City Attorney

By: \_\_\_\_\_  
Lindsey Sebastian, Deputy City Attorney

Date: \_\_\_\_\_

Passed by the Council of The City of San Diego on MAR 10 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 13 2020


**(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.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 312894