

Item #55  
9/15/2020

(O-2021-11)

ORDINANCE NUMBER O- 21235 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 22 2020

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING A FIRST AMENDMENT TO A REIMBURSEMENT AGREEMENT FOR BLACK MOUNTAIN RANCH NORTH AND A PARK DEVELOPMENT AGREEMENT FOR PROJECT NO. P-1, BLACK MOUNTAIN RANCH COMMUNITY PARK, IN THE BLACK MOUNTAIN RANCH COMMUNITY PLAN AREA.

WHEREAS, on November 27, 2001, by San Diego Resolution No. R-295794, the Council of the City of San Diego (City Council) granted Vesting Tentative Map No. 40-0528 (VTM) to Black Mountain Ranch, LLC, a California limited liability company, and BMR Construction, Inc., a California corporation (collectively, Developer), subject to certain conditions determined to be necessary for development of the Black Mountain Ranch Community Park project (Development); and

WHEREAS, effective June 21, 2017, by San Diego Resolution No. R-311199, the City Council adopted the Black Mountain Ranch Public Facilities Financing Plan for Fiscal Year 2017, on file in the Office of the City Clerk as Document No. RR-311199, (Financing Plan), which identifies Project No. P-1 Black Mountain Ranch Community Park and additional public improvements (Project), a component of the Development; and

WHEREAS, City Council approved a Reimbursement Agreement for Black Mountain Ranch North, dated September 5, 2006, pursuant to San Diego Resolution No. R-301820, which details the terms and conditions for the Project and reimbursement by Developer (Reimbursement Agreement); and

WHEREAS, the City of San Diego (City) and Developer desire to amend the Reimbursement Agreement to allow additional time for Developer to complete the Project (First Amendment); and

WHEREAS, Developer completed Phase I of the Project and is ready to begin the design and construction of Phase II of the Project and seek reimbursement for anticipated costs, in accordance with the Financing Plan (Park Development Agreement); and

WHEREAS, the Financing Plan sets forth \$9,677,642 for the Project, which constitutes the total and maximum funds potentially available for reimbursement by the City to Developer; and

WHEREAS, under Charter section 99, no contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance approved by a two-thirds majority vote of the City Council; NOW, THEREFORE,

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

Section 1. The First Amendment, a copy of which is on file in the Office of the City Clerk as Document No. OO- 21235<sup>-1</sup>, is approved.

Section 2. The Park Development Agreement, a copy of which is on file in the Office of the City Clerk as Document No. OO- 21235<sup>-2</sup>, is approved.

Section 3. The Chief Financial Officer, as delegated, is authorized to appropriate and expend an amount not to exceed \$9,677,642 from Fund No. 400091, Black Mountain Ranch Facilities Benefit Assessment, in accordance with the Reimbursement Agreement, First Amendment, and Park Development Agreement, contingent on certification by the Chief Financial Officer that funds necessary for expenditure are available.

Section 4. The Chief Financial Officer, upon advice from the administering department, is authorized to transfer excess funds, if any, to the appropriate reserves.

Section 5. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 6. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Katherine A. Malcolm  
Katherine A. Malcolm  
Deputy City Attorney

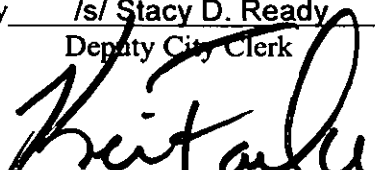
KAM:soc  
07/23/2020  
Or.Dept: Facilities Financing  
Doc. No.: 2403811

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 09/15/2020.

ELIZABETH S. MALAND  
City Clerk

By /s/ Stacy D. Ready  
Deputy City Clerk

Approved: 9/22/2020  
(date)

  
KEVIN L. FAULCONER, Mayor

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

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

(The date of final passage is September 22, 2020, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

Passed by the Council of The City of San Diego on SEP 15 2020, 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"/> |
| 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 SEP 22 2020.

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 *Sty Mead*, 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

AUG 04 2020, and on SEP 22 2020.

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 *Sty Mead*, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21235