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9/14

RESOLUTION NUMBER R- 313709

DATE OF FINAL PASSAGE SEP 14 2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING THE EXECUTION OF AN  
INDEMNIFICATION AGREEMENT WITH NUWI CMR, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY  
REGARDING THE TRAILS AT CARMEL MOUNTAIN  
RANCH PROJECT - PROJECT NO. 652519.

WHEREAS, on January 31, 2020, NUWI CMR, LLC, a Delaware Limited Liability Company, submitted a General Plan and Community Plan Amendment, Rezone, Master Planned Development Permit, Site Development Permit, and Vesting Tentative Map with Easement Vacation (Project) application to the Development Services Department to allow for future residential and commercial development on a 164.5-acre site located at 14050 Carmel Ridge Road; and

WHEREAS, the site is legally described as Parcel 1 of Parcel Map No. 15309, Parcels 1 and 2 of Parcel Map No. 15726, Parcel 1 of Parcel Map No. 15727, Parcels 1 and 2 of Parcel Map No. 15758, Parcel 4 of Parcel Map No. 15862, Parcels 1 and 2 of Parcel Map No. 16314, Parcels 1 and 2 of Parcel Map No. 16337, Parcel 1 of Parcel Map No. 16479, Parcels 1, 2, and 3 of Parcel Map No. 16647, Parcel 1 of Parcel Map 16893, Parcel 1 of Parcel Map No. 16770, Parcel 7 of Parcel Map No. 14678, Lot 4 of Carmel Mountain Ranch Unit No. 15 according to Map thereof No. 11681, Lot 101 of Carmel Mountain Ranch Unit No. 2 according to Map thereof No. 11321, Lot A of Carmel Mountain Ranch Unit No. 5A according to Map thereof No. 11527, Lot A of Carmel Mountain Ranch Unit No. 16 According to Map thereof No. 11906, Lot 11 of Carmel Mountain Ranch Unit 19 according to Map thereof No. 13061, and Lot 12 of Carmel Mountain Ranch Unit 19 according to Map thereof No. 13061, in the City of San Diego, County of San Diego, State of California; 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 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 Indemnification Agreement Regarding General Plan and Community Plan Amendment, Rezone, Master Planned Development Permit, Site Development Permit, and Vesting Tentative Map with Easement Vacation and Environmental Review of the Trails at Carmel Mountain Ranch Project No. 652519, on file in the Office of the City Clerk as Document No. RR- 313709.

APPROVED: MARA W. ELLIOTT, City Attorney

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

LHS:cm  
08/19/21  
Or.Dept: DSD  
Doc. No.: 2740040

Attachment: Indemnification Agreement

**INDEMNIFICATION AGREEMENT REGARDING DISCRETIONARY ACTIONS FOR  
AND ENVIRONMENTAL REVIEW OF THE TRAILS AT CARMEL MOUNTAIN  
RANCH – PROJECT NO. 652519**

This Indemnification Agreement (Agreement) is made by and between the City of San Diego (City) and NUWI CMR, LLC, a Delaware Limited Liability Company (Applicant), collectively referred to as “the Parties.” Applicant is seeking approval from City for various entitlements, including, but not limited to, General Plan and Community Plan Amendment No. 2366421, Rezone No. 2366507, Master Planned Development Permit No. 2366508, Site Development Permit No. 2366425, and Vesting Tentative Map No. 2366422 with Easement Vacation, for the Trails at Carmel Mountain Ranch Project No. 652519 (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, except any challenges filed by the Applicant related to a referendum against the Project approvals or entitlements where Applicant determines on a good faith basis that the referendum is defective and the City disagrees. 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 except in the situation noted above. 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, NUWI CMR, LLC, a Delaware Limited Liability Company

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

Its: Adam Browning / Manager

Date: 8.30.2021

**INDEMNIFICATION AGREEMENT REGARDING DISCRETIONARY ACTIONS FOR  
AND ENVIRONMENTAL REVIEW OF THE TRAILS AT CARMEL MOUNTAIN  
RANCH – PROJECT NO. 652519**

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

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

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

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

APPROVED AS TO FORM:

MARA ELLIOTT, City Attorney

By: \_\_\_\_\_  
Lindsey H. Sebastian  
Deputy City Attorney

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

Passed by the Council of The City of San Diego on SEP 14 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<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"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 14 2021.

**(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:

TODD GLORIA  
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- 313709