

CITY COUNCIL RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA APPROVING TENTATIVE MAP CVT-09-05  
(PCS-09-05) FOR THE OTAY RANCH VILLAGE 9 PROJECT  
SUBJECT TO THE CONDITIONS CONTAINED HEREIN

I. RECITALS

WHEREAS, the parcel of land which is the subject matter of this Resolution is depicted in Exhibit “A,” attached hereto and incorporated herein by this reference and for the purpose of general description consists of 323.1 acres, and identified in County Assessor Records as APN # 644-070-10-00 and a portion of 646-010-05-00, (Project Site); and

WHEREAS, on July 30, 2009, duly verified applications requesting approval of a Tentative Subdivision Map (PCS-09-05), Chula Vista Tract No. 09-05 (Tentative Subdivision Map), Sectional Plan Area (SPA) Plan (PCM-09-19), General Development Plan (PCM-09-11) (GDP), and General Plan Amendment (GPA-09-01), were filed with the City of Chula Vista Development Services Department by Otay Land Company, LLC.(“Applicant” and “Owner”); and

WHEREAS, the development of the Project Site has been the subject matter of General Plan Amendment GPA-09-01, and the Otay Ranch General Development Plan Amendment GDPA-09-11, previously approved by the City Council on February 26, 2013, by Resolution No. 2013-029 (GPA/GDPA Resolution) wherein the City Council, in the environmental evaluation of said GPA/GDPA, relied on the Otay Ranch General Plan and General Development Plan Amendment Supplemental Environmental Impact Report No. 09-01, SCH#2004081066 (SEIR-09-01); and

WHEREAS, the City’s Development Services Director has reviewed the Project for compliance with the California Environmental Quality Act (CEQA) and determined that the Project would result in a significant impact to the environment, and therefore has prepared the Village 9 Sectional Planning Area and Tentative Map Environmental Impact Report EIR-10-04, SCH#2010061090 (EIR-10-04); and

WHEREAS, on June 3, 2014, the Applicant obtained approval of the Otay Ranch Village 9 Sectional Planning Area (PCM 09-19) establishing the pattern of land uses and circulation, polices to guide the development of the Project Site, and establishing the zoning for the property, wherein the City Council, in the environmental evaluation of said Sectional Planning Area, reviewed, considered and certified Final EIR-10-04 (FEIR-10-04) and adopted the Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program, pursuant to Resolution **XXX**; and

WHEREAS, the Applicant requests approval of a Tentative Map to subdivide 323.1 Acres into parcels supporting up to 3,895 multi-family residential units, 105 single-family residential units, and up to 1,500,000 square feet of retail and office uses (Project) on said Project Site; and

WHEREAS, a hearing time and place was set by the Planning Commission for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property

owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, the Planning Commission held an advertised public hearing on the Project on May 14, 2014; the Planning Commission took public testimony; heard staffs' presentation; and reviewed and considered EIR-10-04, and the Project; and

WHEREAS, following staff's presentation and hearing of public comments, due to the Planning Commission's lack of a recommendation for certification of the Final Environmental Impact Report (FEIR), the Planning Commission voted 4-0-2-1 to recommend disapproval of the SPA Plan and Tentative Map consistent with the provisions of Chula Vista Municipal Code (CVMC) Section 19.48.110; and

WHEREAS, following the Planning Commission's public hearing on the Project, a hearing time and place was set by the City Council for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City and its mailing to property owners within 500 feet of the exterior boundary of the Project, at least 10 days prior to the hearing; and

WHEREAS, the duly called and noticed public hearing on the Project was held before the City Council on June 3, 2014 in the Council Chambers, 276 Fourth Avenue, at 2:00 p.m. to receive the recommendations of the Planning Commission, and to hear public testimony with regard to the same; and

WHEREAS, immediately prior to this action, the City Council reviewed and certified FEIR-10-04 and adopted the Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program, pursuant to Resolution **XXXX**.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Chula Vista that it does hereby find, determine and resolve as follows:

II. PLANNING COMMISSION RECORD

Record of the proceedings of the Planning Commission at their public hearing on May 14, 2014, including their vote upon Planning Commission Resolution No. PCM-09-19 recommending disapproval of the Project, along with any relevant comments, have been provided to the City Council and are hereby incorporated into the record of this proceeding.

III. CERTIFICATION OF COMPLIANCE WITH CEQA

The City Council, in the exercise of their independent review and judgment, immediately prior to this action, on June 3, 2014, reviewed and certified FEIR-10-04 and adopted the Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program by Resolution **XXX**.

IV. TENTATIVE SUBDIVISION MAP FINDINGS

- A. Pursuant to Government Code Section 66473.5 of the Subdivision Map Act, the City Council finds that the Tentative Subdivision Map, as conditioned herein for the Project, is in conformance with the elements of the City's General Plan, based on the following:

1. Land Use and Circulation

The Project is consistent with and implements the Otay Ranch Village 9 SPA Plan by establishing developable parcels, public improvements and public facilities that will create an intensified mixed-use Town Center and other complementary land uses, including community purpose facilities, public schools and parks, and residential neighborhoods that offer a variety of housing types and densities. The Eastern Urban Center and the Town Center would be comprised of integrated commercial, residential and office uses that would encourage use of alternative modes of transportation and reduce reliance on the automobile. The Project will be designed to encourage residents to utilize alternative modes of transportation such as the Bus Rapid Transit (BRT) service, the rapid bus service, the SR-125 Village Pathway Bridge, pedestrian sidewalks and trails, and bicycle lanes.

The Project has been designed to include a vehicle circulation system that complies with the requirements of the City of Chula Vista's General Plan, Otay Ranch General Development Plan and Otay Ranch Village 9 SPA Plan. The circulation system includes a pair of one-way streets or a spindle in the Town Center, and a Transit Boulevard for the BRT. Reduced lane widths and bulb-outs at intersections will enhance pedestrian comfort and safety in the EUC, Town Center, and Mixed-Use Residential districts. The construction of the circulation system will be phased in accordance with the Village 9 SPA's Public Facilities Financing Plan (PFFP), such that the development of the circulation system will respond to planned growth and maintain acceptable levels of service, as required by the City's Growth Management Program.

2. Economic Development

The Project will contribute to the economic base of the City by providing a dense urban environment with a street grid system in the Eastern Urban Center, Town Center, and Mixed Use Residential districts that will be a high-quality, energy-efficient employment center that includes commercial, office and multi-family residential uses, that will enhance the image and appearance of the Otay Ranch community and will benefit the local economy. Approval of the Project will help achieve the General Plan objectives that seek to promote a variety of job and housing opportunities to improve the City's jobs/housing balance, provide a diverse economic base, and encourage the growth of small businesses.

3. Public Facilities and Services

To fulfill educational needs of students residing in Village 9, two elementary school sites totaling 19.8 acres have been reserved as described in the PFFP for acquisition by the Chula Vista Elementary School District. The Chula Vista Elementary School District would be able to accommodate the additional students generated by the Project, and the existing schools would not be adversely impacted by the approval of the Project.

Sewer

The Project Site is within the boundaries of the City of Chula Vista wastewater services area. Sewer capacity needs for the Project, in conjunction with long-term growth in the area, have been analyzed in the PFFP. Sewer capacity will be available to serve the Project subject to the PFFP requirements, which are included as Conditions of Approval for the Project. Based on these requirements, no adverse impacts to the City's sewer system or City's sewer threshold standards will occur as a result of the Project.

#### Parks

The Project has been conditioned to dedicate parkland for a 14-acre Neighborhood Park, two town square parks, and three pedestrian parks, for a total of 27.5 acres. Another 9 acres will be provided by property from an off-site location within the Otay Ranch Community Park. Notwithstanding the foregoing, should such contribution not be made at the time required by the Parkland Dedication Ordinance (PLDO), the Applicant shall be responsible for providing a 9-acre site at another location approved by the City in its sole discretion, or by the payment of park fees in accordance with the PLDO. Phasing of park facilities and maintenance has been addressed in the PFFP. The actual park facilities and amenities will be determined in conjunction with the park master plan process for each individual park. The applicant will also be required to pay park acquisition and development fees prior to issuance of Final Maps/building permits.

#### Services

The Project has been conditioned to ensure that all necessary public facilities and services will be available to serve the Project concurrent with the demand for those services. The City Engineer, Fire and Police Departments have reviewed the proposed subdivision for conformance with City safety policies and have determined that the proposal meets those standards. Project construction will be required to comply with the applicable California Green Building Standards, the City's Green Building Standards and the City's Energy Efficiency Ordinance in affect at the time of building permit issuance, and therefore energy-efficient homes will be developed.

#### 4. Housing

The Project will provide a variety of housing types, including single-and multi-family residential home ownership opportunities, as well as affordable housing opportunities, as required by the Affordable Housing Plan prepared for Project. The Project has been conditioned to require that the Applicant enter into an agreement to provide affordable housing prior the approval of the first Final Map. Thus the Project is consistent with the Housing Element of the City's General Plan by providing additional opportunities for high-quality, market-rate single-family residential home ownership in the southwestern portion of the City.

#### 5. Growth Management

The Project is in compliance with applicable Growth Management Element requirements because a PFFP has been prepared as required by the Growth Management Ordinance. These PFFP requirements have been included in the Project's conditions of approval.

#### 6. Environmental

The Project EIR-10-04 addressed the goals and policies of the Environmental Element of the General Plan and found development of this site to be consistent with these goals and policies. The Otay Ranch Resource Management Plan requires conveyance of 1.188 acres of land to the Otay Ranch Preserve for every one-acre of developed land prior to approval of any Final Map, which is equivalent to approximately 237.8 acres. The Project has been conditioned to dedicate Multi-species Conservation Plan (MSCP) open space preserve lands prior to approval of the Final Map. The Project is consistent with the requirements of the Otay Ranch Resource Management Plan (RMP) and MSCP Subarea Plan.

- B. Pursuant to Government Code Section 66473.1 of the Subdivision Map Act, the configuration, orientation, and topography of the site allows for the optimum siting of lots for natural and passive heating and cooling opportunities and that the development of the site will be subject to site plan and architectural review to ensure the maximum utilization of natural and passive heating and cooling opportunities.
- C. Pursuant to Government Code Section 66412.3 of the Subdivision Map Act, the City Council has considered the effect of this approval on the housing needs of the region and has balanced those needs against the public service needs of the residents of the City and the available fiscal and environmental resources.
- D. The site is physically suited for development because it will be developed in conformance with the Otay Ranch Village 9 SPA Plan and EIR-10-04, which contain provisions to ensure that the site is developed in a manner that is consistent with the standards established by the City for a master-planned community.
- E. The conditions herein imposed on the Project, are approximately proportional both in nature and extent to the impact created by the Project, based upon the City's police powers and evidence provided by the record of the proceedings of EIR-10-04.

V. GOVERNMENT CODE SECTION 66020 NOTICE

Pursuant to Government Code Section 66020(d) (1), NOTICE IS HEREBY GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to follow timely this procedure will bar any subsequent legal action to attack, set aside, void or annual imposition. The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with the project; and it does not apply to any fees, dedication, reservations, or other exactions which have been given notice similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

VI. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property owner and the Applicant shall execute this document by signing the lines provided below, said execution indicating that the property owner and Applicant have each read, understood, and agreed to the conditions contained herein. Upon execution, this document shall be recorded with the County Recorder of the County of San Diego, at the sole expense of the property owner and the Applicant, and a signed, stamped copy of this

recorded document shall be returned within ten days of recordation to the City Clerk. Failure to record this document shall indicate the property owner and Applicant's desire that the Project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval. Said document will also be on file in the City Clerk's Office and known as Document No. \_\_\_\_\_.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

**VII. CONSEQUENCE OF FAILURE OF CONDITIONS**

If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The Applicant shall be notified ten (10) days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City within a reasonable and diligent time frame.

**VIII. INVALIDITY; AUTOMATIC REVOCATION**

It is the intention of the City Council that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision and condition herein stated; and that in the event that any one or more terms, provision, or conditions are determined by a Court of competent jurisdiction to be invalid, illegal or unenforceable, this resolution shall be deemed to be automatically revoked and of no further force and effect ab initio.

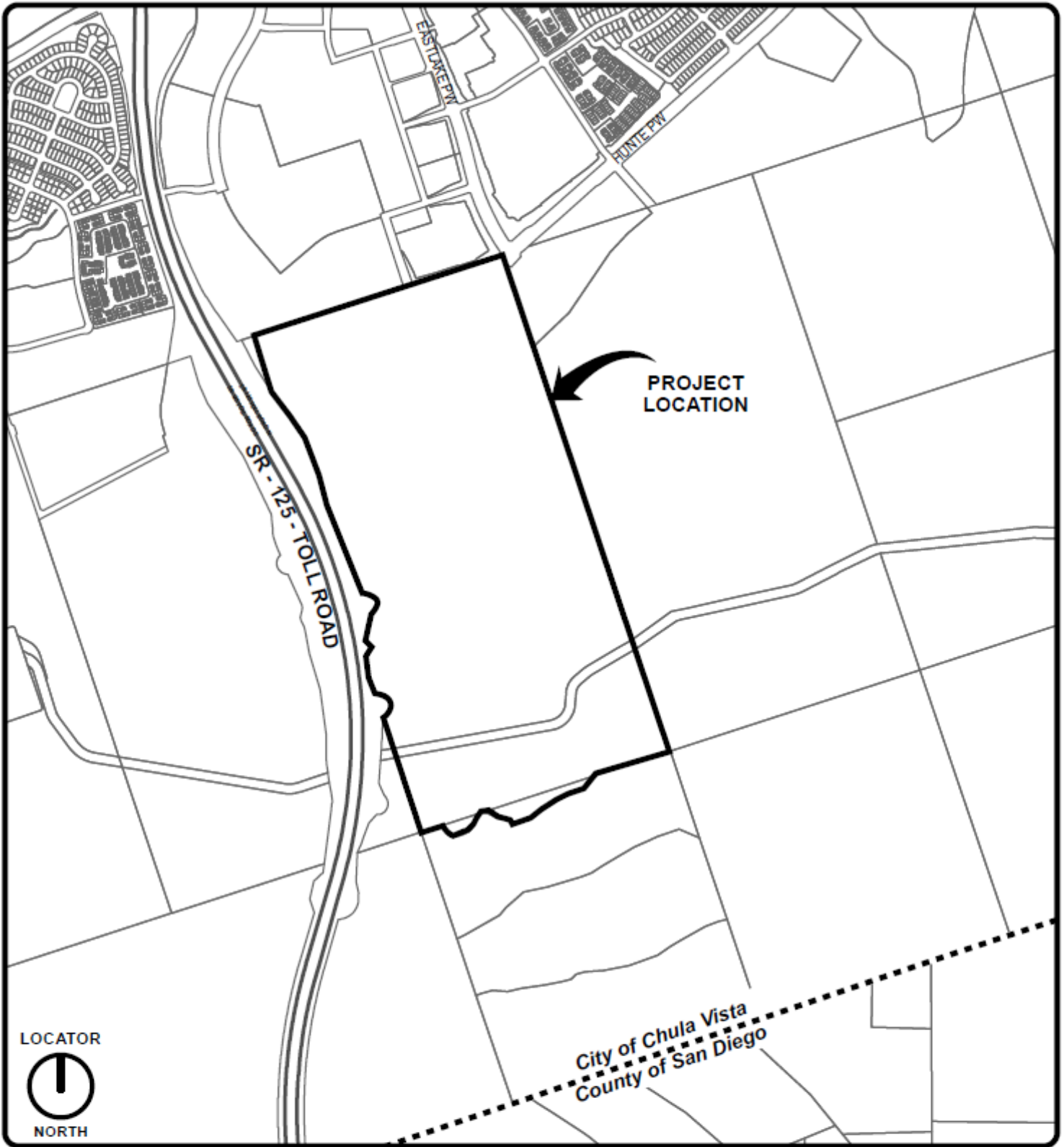
BE IT FURTHER RESOLVED that the City Council does hereby approve the Project subject to the Findings contained herein and subject to the Conditions of Approval set forth in Exhibit B attached hereto and incorporated herein by this reference.

Presented by:

Approved as to form by:

\_\_\_\_\_  
Kelly Broughton, FASLA  
Director of Development Services

\_\_\_\_\_  
Glen R. Googins  
City Attorney



**EXHIBIT "A"**

Exhibit B - Village 9 Tentative Map Conditions

TENTATIVE MAP CONDITIONS OF APPROVAL

Unless otherwise specified or required by law: (a) the conditions and Code requirements set forth below shall be completed prior to the related Final Map as determined by the Development Services Director and the City Engineer, unless otherwise specified, "dedicate" means grant the appropriate easement, rather than fee title. Where an easement is required the Applicant shall be required to provide subordination of any prior lien and easement holders in order to ensure that the City has a first priority interest and rights in such land unless otherwise excused by the City Manager or his/her designee. Where fee title is granted or dedicated to the City, said fee title shall be free and clear of all encumbrances, unless otherwise excused by the City.

Should conflicting wording or standards occur between these conditions of approval, any conflict shall be resolved by the City Manager or designee.

GENERAL/PLANNING AND BUILDING

1. The Applicant, or his/her successors in interest, shall improve the Project Site with the Project as described in the Tentative Subdivision Map, Chula Vista Tract No. 09-05, generally located south of the existing terminus of Eastlake Parkway and Hunte Parkway and east of SR-125.
2. The Project shall comply with approved General Plan Amendment GPA-09-01 and General Development Plan Amendment PCM-09-11 approved February 26, 2013, the Sectional Planning Area (SPA) Plan PCM-09-19, approved June 3, 2014 and all supporting documents including but not limited to Public Facilities Finance Plan, Parks, Recreation, Open Space and Trails Plan, Affordable Housing Plan and Non-Renewable Energy Conservation Plan, and the City of Chula Vista Standard Tentative Map Conditions as outlined in the Subdivision Manual and incorporated herein.
3. Prior to the issuance of the 2,000th residential building permit for the Village 9 Project, the applicant shall obtain approval of a final B map, grading plan and improvement plans that ensures that one of the Community Purpose Facility (CPF) Sites (Either Lot J or Lot X) is graded and in a usable condition, including installation of necessary access and utilities. Prior to the issuance of the 2,751st residential building permit, the second CPF site shall be graded and in a usable condition as noted above all to the satisfaction of the Development Services Director.
4. The Applicant shall implement, to the satisfaction of the Development Services Director and the City Engineer, the mitigation measures identified in the Supplemental Environmental Impact Report (CV EIR 09-01) for Amendments to the Chula Vista General Plan (GPA 09-01) and Otay Ranch General Development Plan (PCM-09-11) and associated Mitigation Monitoring and Reporting Program for the Village 9 Project; and the Otay Ranch Village 9 Sectional Planning Area Environmental Impact Report (CV EIR #10-04; SCH No. 2010061090) and associated Mitigation Monitoring and Reporting Program (MMRP) for the Village 9 Project, within the timeframe specified in the MMRP.
5. The CC&R's for each Homeowners Association (HOA) within the Village 9 project shall contain a provision that provides all new residents with an overflight disclosure document that discloses the following information during any real estate transaction or prior to lease signing, as required by the Brown Field Airport Land Use Compatibility Plan (ALUCP):



**NOTICE OF AIRPORT IN VICINITY:** This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase or lease and determine whether they are acceptable to you.

A copy of this disclosure document shall be recorded with the County of San Diego County Recorder's Office as part of project approval. Each prospective homeowner shall sign the disclosure document confirming they have been informed of the vicinity of the airport prior to the purchase of a home.

6. The Applicant shall obtain approval of a subsequent Final Map showing condominium ownership prior to development of condominiums within any Planning Area proposing mixed residential/commercial or multi-family residential uses.
7. The Applicant shall construct public facilities in compliance with the Otay Ranch Village 9 Public Facilities Finance Plan (as amended from time to time) as specified in the Threshold Compliance and Recommendations Section for each public facility chapter. At the applicant's request, the City Engineer and Development Services Director may, at their discretion, modify the sequence, schedule, alignment and design of improvement construction should conditions change to warrant such a revision.
8. The Applicant shall dedicate, with the applicable final map, for public use all the public streets shown on the tentative map within the subdivision boundary. The applicant shall construct or enter into an agreement to construct and secure all street and intersection improvements as necessary to mitigate the impacts of the Village 9 Project and as specified in Otay Ranch Village 9 SPA Plan Final Draft Public Facilities Finance Plan Table 4.1.3 "Project Access and Direct Traffic Mitigation Threshold Requirements" and Table 4.1.4 "Internal Street Improvements". The Applicant shall construct the public improvements and provide security satisfactory to the City Engineer and City Attorney.
9. Prior to approval of any final map showing public or private streets, the Applicant shall obtain approval of street names to the satisfaction of the Development Services Director and City Engineer.
10. In accordance with Subdivision Manual Condition 40: The applicant shall notify the City at least 60 days prior to consideration of the first map by the City if any off-site right-of-way or any interest in real property needed to construct or install offsite improvements cannot be obtained as required by the Conditions of Approval. After said notification, the developer shall comply with the requirements set forth in Subdivision Manual Condition 40.
11. Prior to the approval of the final map for Planning Areas CC, DD, EE, and FF provide an off-site fuel management program per Section 9.4 "Off-Site Fuel Management" of the Fire Protection Plan, and CVMC Chapter 15.38- "Urban Wildland Interface Code." The Program shall establish the obligations for fuel management that apply to each of the Planning Areas and adjacent off-site properties, including required fuel management zones adjacent to structures, consent from affected off-site property owners, and other applicable requirements to the satisfaction of the Fire Marshal and Development Services

Director. The program requirements shall be satisfied prior to the delivery of combustible material to the site, to the satisfaction of the Fire Marshal.

12. A reserve fund program has been established by Resolution No. 18288 for the funding of the Fiscal Impact of New Development (F.I.N.D.) Model for the Otay Ranch Project. The Applicant shall provide funds to the Reserve Fund as required by the Reserve Fund Program (RFP). Pursuant to the provisions of the Growth Management Ordinance and the Otay Ranch General Development Plan (GDP), the Applicant shall participate in the funding of the preparation of an annual report monitoring the development of the community of Otay Ranch. The annual monitoring report will analyze the supply of, and demand for, public facilities and services governed by the threshold standards. An annual review shall commence following the first fiscal year in which residential occupancy occurs in the Project and is to be completed during the second quarter of the following fiscal year. The annual report shall adhere to the GDP/SRP, as amended from time-to-time.
13. Prior to the first final map, the applicant will enter into an agreement to provide funding for periods where project expenditures exceed projected revenues in compliance with CVMC 19.09.060(J).
14. Prior to the first final map for the Eastern Urban Center, the University Town Center, and the Mixed-Use Residential Districts, the applicant shall submit and obtain approval by the City of a Master Precise Plan and Planned Sign Program for each of these districts. Applicant shall be required to obtain an approval of a Master Encroachment Permit prior to construction of signage in the public right-of-way in each of these districts, to the satisfaction of the City Engineer and Development Services Director.

Public Facilities:

15. Prior to the first final map for the planning areas adjacent to SR-125 (or per the unit/EDU thresholds in the PFFP), developer shall dedicate the right-of-way that is necessary for the SR-125 interchange as depicted in the SR-125 EIR at Main Street and reserve for future acquisition by Caltrans or other applicable public agency the right-of-way for the SR-125 interchange at Otay Valley Rd..
16. Prior to approval of the first A map for the Project, Applicant shall provide for a pedestrian bridge connecting Village 9 to Village 8-East (east-west) over SR-125 centered between Main Street and Otay Valley Road, as follows:
  - a. Prior to approval of the first A map for the Project, the Applicant shall provide the preliminary design of said bridge in concert with the Directors of Development Services and Public Works and also identify and establish a Pedestrian Bridge Development Impact Fee (DIF) funding mechanism to be used to fund the cost of design, engineering, and construction of said bridge; and
  - b. The Village Pathway and Pedestrian Bridge facility shall be designed in a location to be determined with a minimum deck width of 13-feet, sufficient for both two-way bicycle and pedestrian users to safely share the Village Pathway and Pedestrian Bridge, to the standards and satisfaction of the Directors of Development Services and Public Works; and

- c. The timing of the construction of said bridge will be determined by the City Manager of designee, consistent with the requirements of the Village 9 SPA Plan, Public Facilities Financing Plan (PFFP).
  
17. Prior to the final B map for the Project containing the 3,074th unit in the Project, the Village Pathway within Village 9, including the pedestrian bridge between Village 9 and Village 8-East, shall have been constructed and in service. If these facilities are not constructed and in service then one of the following steps shall be required as determined by the Directors of Development Services and Public Works:
  - a. Development in Village 9 shall not proceed until the Village Pathway pedestrian and bicycle bridge is constructed; or
  - b. City and the developer shall meet to determine whether revised timing of the facilities is appropriate. A number of factors, including the progress of development of Village 8-East and changes to the assumed land uses, may affect the timing and location of the facilities; or
  - c. Developer shall construct the facilities and be eligible for reimbursement from the Village Pathway Bridge DIF for total expenditures in excess of 50-percent of the total cost of the facilities.
  
18. Upon approval of the tentative map, Applicant shall provide an approved (stamped/signed) copy to the Chula Vista Elementary School District (CVESD). Prior to approval of the first final map for the Project, Applicant shall provide evidence of the funding compliance mechanism to be utilized to assure that school facilities will be funded in compliance with state law. The CVESD preferred funding compliance mechanism is participation in a Community Facilities District (CFD).
  
19. Prior to approval of the Final Map or Design Review application that identifies the need for public transit facilities in accordance with MTS determination, the Developer shall provide a deposit in the amount of \$20,000 for each planned transit facility station or transit stop payable to the City of Chula Vista for a Capital Improvement Project for future transit improvements, or enter into an agreement to construct future transit improvements to the satisfaction of the Chula Vista Transit Coordinator and/or MTS or their designee.
  
20. Prior to approval of the first final map or the issuance of the first grading permit for the Village 9 Project, whichever occurs first, the applicant shall provide all of the following:
  - a. Evidence satisfactory to the Development Services Director, that the applicant has entered into a binding and properly executed agreement with the City of San Diego to construct new City of San Diego waterlines at a location that has been approved by the City of Chula Vista (“Waterline Agreement”) to replace the existing waterlines located within Village 9.
  - b. Evidence that the City of San Diego has abandoned or has agreed to abandon any water main easements not needed as a consequence of the relocation of the City of San Diego waterlines within Village 9.
  - c. Submit grading and improvement plans for the approval of the Development Services Director, including security for completion of said work (or proof of security in which City of Chula Vista has a right thereto), for the construction of

new City of San Diego waterlines in accordance with the provisions of the Waterline Agreement. The improvement plans shall depict the closure or abandonment of the existing water lines in accordance with standard engineering practices.

- d. Enter into an agreement to obtain City approval of a SPA amendment and/or any other documentation, to the satisfaction of the Development Services Director, should the relocation of the City of San Diego waterline fails to occur.
- e. Enter into an agreement with the City of Chula Vista to defend, indemnify and hold harmless the City, its elected and appointed officers and employees, from and against any and all claims, causes of action, demands, suits, actions or proceedings, judicial or administrative, for writs, orders, injunction or other relief, damages, liability, cost and expense (including without limitation attorneys' fees) arising out of, connected with or incidental to the construction of the new City of San Diego waterlines and the closure and abandonment of the old waterlines, or from any and all City action, conduct or matter related thereto.

Affordable Housing:

- 21. Prior to approval of the first final map for the Project, the Developer shall enter into a Balanced Communities Affordable Housing Agreement, in compliance with applicable City and State of California regulations. This agreement shall identify potential affordable housing sites, schedules and the following building permit threshold requirements described in the Affordable Housing Plan: (1) prior to the City's issuance of the 1,600th building permit within Village 9, developer shall commence construction of the Initial Phase of the low and moderate-income housing units, and (2) prior to the City's issuance of the 3000th building permit, Developer shall commence construction of the remainder of required low and moderate-income housing units. "Initial Phase" shall mean 50% of the total number of qualified low and moderate-income housing units.

Grading:

- 22. Grading plans that include freestanding walls or sound walls adjacent to 2:1 or greater slopes more than 6 feet high shall include a minimum 2 ft. wide level bench for landscaping and maintenance access adjacent to the front of the wall.

Water Quality:

- 23. Developer shall agree to remain in compliance with the City's Storm Water Manual, as updated from time to time consistent with the Project Development Agreement as determined by the Director of Development Services.
- 24. Developer shall prepare a sub area water master plan for potable and reclaimed water to the satisfaction of the Otay Water District or the City of Chula Vista prior to the first final map.
- 25. Developer shall further secure and agree to construct all facilities necessary to provide potable, reclaimed and fire flows, both on and off-site to serve the Project as outlined by the sub area master plan, prior to each final map for the project or as approved by the Director of Development Services.

26. Developer shall provide public access including right of way, sidewalks, curb, gutter, storm drain to any land locked parcel created by the project prior to the final map that would include such parcel or would create such condition, as determined by the Director of Development Services.

Parks:

27. Prior to approval of the first final map for the Project, the Applicant shall provide the City with an Irrevocable Offer of Dedication (IOD) for at least 9.0 acres of parkland acceptable to the Director of Recreation to be located in the Village 8 West Community Park or in another suitable off-site location that would be found acceptable to the Director of Recreation. The 9.0 acre IOD for parkland is for the purpose of meeting the Project's Community Park off-site dedication obligation, and is also subject to review and approval to the satisfaction of the Development Services Director.

Trails:

28. The Landscape Master Plan and Grading Plans shall maintain a minimum required neighborhood trail width of 6 feet unless due to physical constraints, such as but not limited to slope areas, a 6-ft. width is deemed impractical by the Director of Development Services, then a narrowing of the travel path to 4-ft. may be permitted. In other areas, neighborhood trails shall maintain a minimum of 6 feet of trail within an 8 foot wide bench, to the satisfaction of the Development Services Director.
29. Prior to approval of the first final map for the project, the Applicant shall record an easement for public trail purposes within any portion of Wiley Road owned by the Applicant.
30. Requirements for the planning, development, and construction of the OVRP Regional Trail.
  - a. Prior to the approval of the first final map within Village 9 south of Otay Valley Road, the applicant shall dedicate a minimum 10-ft. wide easement for multi-use trails through the OS-3 Area to connect Parks HH and II to the satisfaction of the Development Services Director.
  - b. Prior to the issuance of the 719th building permit for residential units south of Street H, said trail shall be constructed within Park Area II and the OS-3 Area. The trail shall provide a connection to an off-site trail (Village 9 Greenbelt Connector Trail) that will be located along an existing disturbed road that runs southwest from Village 9 through the County owned parcel and connects to the existing easement that runs along Wiley Road.
  - c. City shall take such actions necessary to secure the easements needed from the County that will provide for the implementation of the Village 9 Greenbelt Connector Trail. Applicant or successor owners or assigns in interest shall pay for any costs associated with obtaining such easements.
31. The applicant or successor owners or assigns in interest shall provide the design, and pay for the environmental review, permitting and construction of the trail that will connect Village 9 to the Greenbelt Trail along Wiley Road, and the Otay Valley Regional Park to the satisfaction of the Development Services Director. The applicant or successor owners or assigns in interest shall pay all staff costs associated with review of all of the

documents and plans necessary for the trail design, permitting, and construction of the trail. This Connector Trail shall, subject to final design and engineering, be generally located along the existing disturbed road that is located southwest of the Project and runs south to Wiley Road (Exhibit C). This trail will serve as the Village 9 Greenbelt Connector Trail.

- a. Prior to approval of the First Final A Map within Village 9, the applicant shall submit to the City a deposit sufficient to cover costs for environmental review and permitting of the Village 9 Greenbelt Connector Trail satisfactory to the Development Services Director.
- b. Prior to the issuance of the first building permit for any residential unit south of Otay Valley Road, applicant shall construct the Connector Trail to the satisfaction of the Development Services Director.
- c. Concurrently with the payment of the deposit to cover staff costs, the applicant shall post a Performance Bond with the City in an amount sufficient to fund all costs related to the siting, permitting and construction of the Village 9 Greenbelt Connector Trail. The amount of the Performance Bond will be subject to approval by the Development Services Director. Said bond shall name the City as the obligee.

Landscaping/Walls/Fences:

32. In place of Subdivision Manual Condition 30 and 33, prior to approval of the first final map the Applicant shall:
  - a. Obtain approval of the Landscape Master Plan for the project. The Landscape Master Plan shall identify a funding mechanism to maintain parks, landscape improvements, trails, open space areas and other improvements in such areas. The contents of the Landscape Master Plan shall contain the major components listed in Master Condition 30(a) thru (h) in the Subdivision Standard Conditions unless waived by the Development Services Director.
  - b. Submit evidence acceptable to the City Engineer and Development Services Director of the formation of a Master Homeowner's Association (MHOA), or another financial mechanism acceptable to the City Manager, including a Community Facilities District (CFD) or Open Space District. A Community Facilities District is the preferred financial mechanism for a maintenance district. If another financial mechanism is not formed, the MHOA shall be responsible for the maintenance of those landscaping improvements that are not included in the proposed financial mechanism. The City Engineer and the Development Services Director may require that some improvements be maintained by the Open Space District. The final determination of which improvements are to be included in the Open Space District and those to be maintained by the MHOA shall be made during the Open Space District Proceedings. The MHOA shall be structured to allow annexation of future tentative map areas in the event the City Engineer and Development Services Director requires such annexation of future tentative map areas. The MHOA formation documents shall be subject to the approval of the City Attorney.
  - c. The Applicant shall submit for City's approval the CC&R's grant of easements and maintenance standards and responsibility of the MHOA's for the Open Space

Areas within the Village 9 Project Area. The Applicant shall acknowledge that the MHOA's maintenance of public open space, trails, etc. may expose the City to liability. The Applicant agrees to establish an MHOA that will indemnify and hold the City harmless from any actions of the MHOA in the maintenance of such areas.

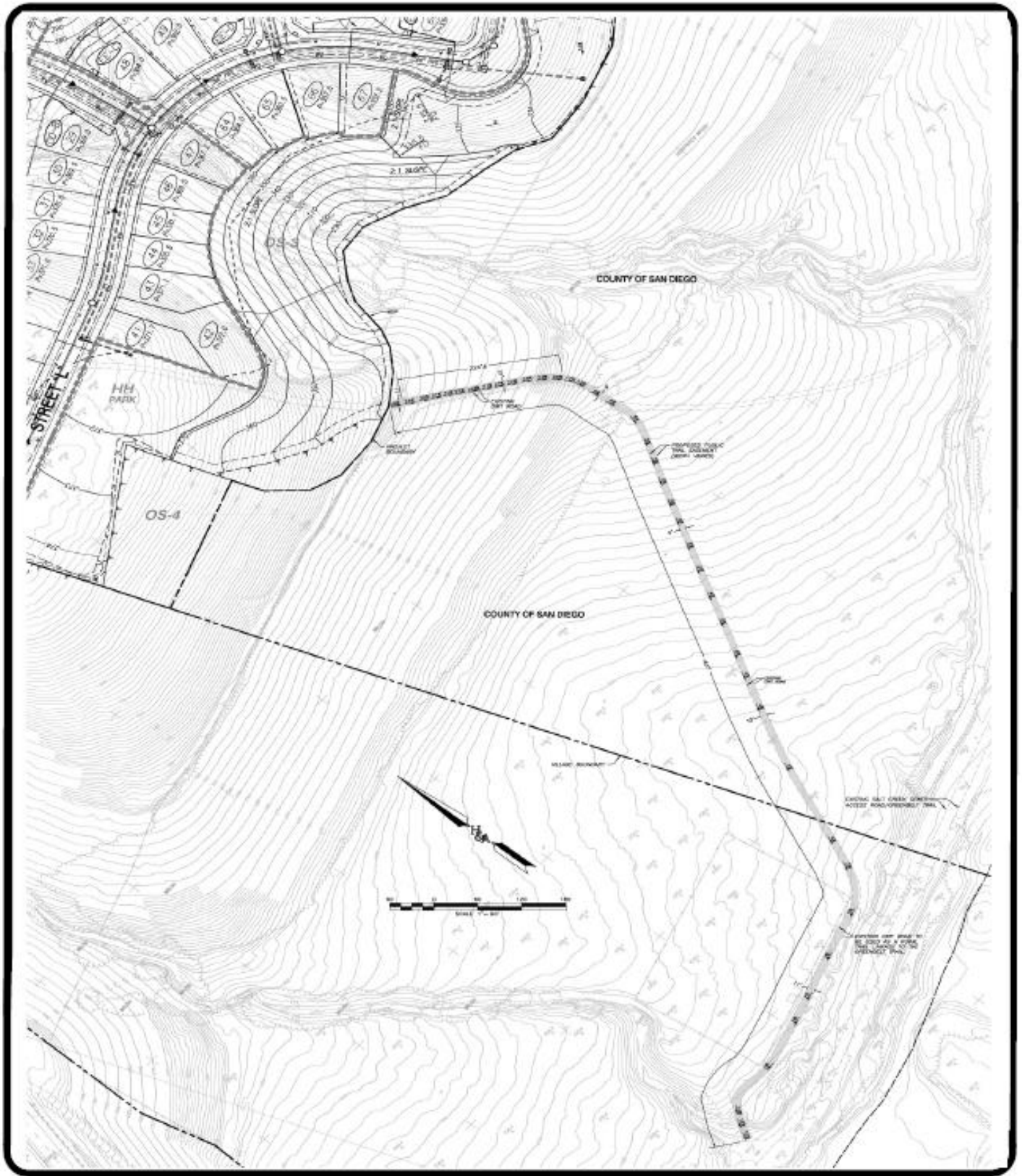
- d. Submit and obtain approval of the City Engineer and Development Services Director of a list of all facilities and other items to be maintained by the proposed district or MHOA. Separate lists shall be submitted for the improvements and facilities to be maintained by the Open Space District or some other financing mechanism and those to be maintained by the MHOA. Include a description, quantity, and cost per year for the perpetual maintenance of said improvements. These lists shall include but are not limited to the following facilities and improvements:
  - i. All facilities located on open space lots to include but not be limited to: walls, fences, water fountains, lighting structures, paths, trails, access roads, drainage structures, and landscaping. Each open space lot shall also be broken down by the number of acres of: 1) turf, 2) irrigated, and 3) non-irrigated open space to aid in estimation of a maintenance budget thereof.
  - ii. Medians and parkways along Project roadways, (onsite and off-site and all other street parkways proposed for maintenance by the applicable Community Facilities District or Homeowner's Association.
  - iii. The proportional share of the maintenance of any medians and parkways along the applicable roadways as identified in the PFFP adjoining the development as determined by the City Engineer.
  - iv. All water quality basins serving the Project (Development Services).
33. In addition to those conditions specifically listed above, Applicant shall comply with Subdivision Manual Conditions 31, 32, 34, 35, and 37.
34. The Applicant agrees to not protest formation or inclusion in a maintenance district or zone for the maintenance of landscape medians, pedestrian bridges, scenic corridors along streets and public parks, within or adjacent to the subject subdivision.
35. The Applicant shall submit a detailed wall/fencing plan with the Design Review Site Plan submittal for each planning area showing that all project walls and fences comply with the approved SPA Plan Section 4.2.4, Landscape Master Plan, and other applicable City of Chula Vista requirements, to the Development Services Director for approval. Plans shall indicate color, materials, height and location of freestanding walls, retaining walls, and fences. The plan shall also include details such as accurate dimensions, complete cross-sections showing required walls, adjacent grading, landscaping, and sidewalk improvements.
36. Prior to the approval of the first final map for the SPA Plan, the applicant shall annex the project area within the Otay Ranch Preserve Community Facilities District No. 97-2, Improvement Area "C".
37. Prior to recordation of each final map the applicant shall convey fee title to land within the Otay Ranch Preserve to the Otay Ranch Preserve Owner Manager or its designee at a ratio of 1.188 acres for each acre of development area, as defined in the Otay Ranch Resource Management Plan. Access for maintenance purposes shall also be conveyed to

the satisfaction of the Preserve Owner Manager, and each tentative map shall be subject to a condition that the applicant shall execute a maintenance agreement with the Preserve Owner Manager stating that it is the responsibility of the applicant to maintain the conveyed parcel until the Otay Ranch Preserve Community Facilities District No. 97-2 has generated sufficient revenues to enable the Preserve Owner Manager to assume maintenance responsibilities. The applicant shall maintain and manage the offered conveyance property consistent with the Otay Ranch Resource Management Plan Phase 2 until the Otay Ranch Preserve Community Facilities District No. 97-2 has generated sufficient revenues to enable the Preserve Owner Manager to assume maintenance and management responsibilities.

38. Prior to the Preserve Owner Manager's acceptance of the conveyed land in fee title, the applicant shall prepare, to the satisfaction of the Preserve Owner Manager, area specific management directives for the associated conveyance areas, which shall incorporate the guidelines and specific requirements of the Otay Ranch Resource Management Plan, management requirements of Table 3-5 of the Multiple Species Conservation Program Subarea Plan and information and recommendations from any relevant special studies. Guidelines and requirements from these documents shall be evaluated in relationship to the Preserve configuration and specific habitats and species found within the associated conveyance areas and incorporated into the area specific management directives to the satisfaction of the Preserve Owner Manager.
39. To ensure compliance with the Chula Vista MSCP Subarea Plan impact threshold for narrow endemic species within the Preserve (specifically snake cholla), grading and infrastructure plans for the off-site sewer and storm drain facilities (TM 09-05, Sheet 5) shall limit the width of the construction easement to 40 feet within the initial 400 feet extending south from Planning Area II. The combined width of the permanent easement for the off-site sewer and storm drain facilities shall not exceed 30 feet (EIR 10-04, page 5.6-23). Compliance with this condition shall be to the satisfaction of the Development Services Director.
40. Prior to construction of Bus Rapid Transit and/or Rapid Bus transit stations in Village 9, obtain approval of improvement plans to the satisfaction of SANDAG, the Chula Vista Transit Coordinator and the Development Services Director.
41. Prior to issuance of the first building permit or other discretionary permits for mixed use, multi-family, or other non-residential developments within the project site, the Applicant shall comply with applicable provisions of Municipal Code Section 8.24 - Solid Waste and Litter, and Section 8.25 - Recycling, related to development projects, to the satisfaction of the Department of Public Works, Environmental Services Division. These requirements include, but are not limited to the following design requirements:
  - a. The Applicant shall design mixed-use, multi-family, and commercial development projects to comply with the Recycling and Solid Waste Standards for central collection bin services.
  - b. The Applicant shall design each single-family lot or residence to accommodate the storage and curbside pickup of individual trash, recycling and green waste containers (3 total), as approved for a small-quantity generator (single family residential use).



42. Prior to recordation of each final B map all CFD slope and open space areas shall be individually lotted on said final map to the satisfaction of the Development Services Director.
  
43. Pursuant to the Addendum to Land Offer Agreement, dated February 26, 2013, between the applicant and City, prior to the approval of the first final map, the applicant shall demonstrate that any mitigation land to be conveyed to the City subject to a Former Used Defense Site ("FUDS") designation does not contain munitions debris or any such munitions debris has been remediated to the satisfaction of the Development Services Director, or in the alternative, the applicant may provide mitigation property without a FUDS designation within the Otay Ranch Preserve of an equivalent size in a condition acceptable to the Development Services Director.



**EXHIBIT "C"**