

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING A SECTIONAL PLANNING AREA (SPA) PLAN INCLUDING PLANNED COMMUNITY DISTRICT REGULATIONS/DESIGN PLAN (FORM BASED CODE), PUBLIC FACILITIES FINANCE PLAN, AFFORDABLE HOUSING PLAN AND OTHER REGULATORY DOCUMENTS ON APPROXIMATELY 323 ACRES OF LAND IN THE VILLAGE 9 PORTION OF THE OTAY RANCH

I. RECITALS

A. Project Site

WHEREAS, the area of land that is the subject of this Resolution is diagrammatically represented in Exhibit A attached hereto and incorporated herein by this reference, and commonly known as Otay Ranch Village 9, and for the purpose of general description consists of approximately 323.1 acres generally located southwest of the existing terminus of Eastlake Parkway and Hunte Parkway and east of SR-125 (Project Site); and

B. Project; Application for Discretionary Approvals

WHEREAS, on July 30, 2009, a duly verified application requesting approval of Sectional Plan Area (SPA) Plan (PCM-09-19), was filed with the City of Chula Vista Development Services Department by Otay Land Company, LLC. (“Applicant” and “Owner”); and

WHEREAS, the proposed SPA Plan is entitled “Sectional Planning Area Plan, Village 9, December 2013” which includes and is incorporated therein all of the attached Appendices, on file in the Office of the City Clerk; and

C. Prior Discretionary Approvals

WHEREAS, the development of the Project Site has been the subject matter of a 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 Amendment and General Development Plan Amendment Supplemental Environmental Impact Report No. 09-01, SCH #2004081066 (SEIR 09-01); and

D. Environmental Determination

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 CV-EIR 10-04; and

E. Planning Commission Record of Application

WHEREAS, the Development Services Director set the time and place for a hearing on the Project, and notice of the 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 Site 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, and 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 TM consistent with the provisions of Chula Vista Municipal Code (CVMC) Section 19.48.110; and

WHEREAS, the proceedings and all evidence introduced before the Planning Commission at the public hearing on the Project held on May 14, 2014 and the Minutes and Resolution resulting therefrom, are incorporated into the record of this proceeding; and

F. City Council Record of Application

WHEREAS, the City Clerk set the time and place for the hearing on the Project application and notices of said hearings, together with its purposes 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 boundaries of the Project Site at least ten (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 in the City Hall, Chula Vista Civic Center, 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. The proceedings and any documents submitted to the City Council as the decision-makers shall comprise the entire record of the proceedings; and

WHEREAS, immediately prior to this action, the City Council reviewed 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 **XXXX**.

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

II. CERTIFICATION OF COMPLIANCE WITH CEQA

The City Council, in the exercise of their independent review and judgment, immediately prior to this action, reviewed and certified FEIR-10-04 and adopted the Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program, which are attached to this Resolution as Exhibit "B."

III. SPA FINDINGS

A. THE PROPOSED SECTIONAL PLANNING AREA PLAN IS IN CONFORMITY WITH THE OTAY RANCH GENERAL DEVELOPMENT PLAN AND ITS SEVERAL ELEMENTS.

The proposed Village 9 SPA Plan reflects land use designations, circulation, and public facilities that are consistent with the Otay Ranch General Development Plan and the City of Chula Vista General Plan. The proposed SPA Plan is compatible with previously approved plans and regulations applicable to surrounding sites and, therefore, the proposed SPA Plan can be planned and zoned in coordination and substantial compatibility with surrounding development.

B. THE PROPOSED SPA PLAN WILL PROMOTE THE ORDERLY SEQUENTIALIZED DEVELOPMENT OF THE INVOLVED SECTIONAL PLANNING AREAS.

The proposed Village 9 SPA Plan will promote the orderly sequentialized development of the SPA Plan area because the project will be developed in a manner that is consistent with the project's Form Based Code, Phasing Plan, and Public Facilities Financing Plan.

C. THE PROPOSED SPA PLAN WOULD NOT ADVERSELY AFFECT ADJACENT LAND USE, RESIDENTIAL ENJOYMENT, CIRCULATION OR ENVIRONMENTAL QUALITY.

The proposed Village 9 SPA Plan has been reviewed and has been determined to be consistent with the overall land use pattern and circulation system envisioned in the Otay Ranch General Development Plan. Environmental Impact Report FEIR -10-04 and its associated Mitigation Monitoring and Reporting Program have been prepared and any impacts associated with the proposed SPA Plan would be mitigated to the extent feasible. Thus, the proposed SPA Plan, as a whole, would not adversely affect the adjacent land uses, residential enjoyment, circulation or

environmental quality of the surrounding uses.

IV. CONDITIONS OF APPROVAL

1. Prior to approval of any land development permits, the Applicant shall demonstrate that the applicable Air Quality Improvement Plan (AQIP) project design features and measures outlined in the Air Quality Improvement Plan pertaining to the design, construction and operational phases of the project have been incorporated in the project design.
2. Prior to issuance of building permits or approval of landscape construction plans, the Applicant shall implement the applicable mandatory water quality conservation measures of the Water Conservation Plan of the SPA Plan.
3. The Applicant shall develop the Project site as described in the Project Description of the Final Environmental Impact Report (FEIR-10-04).
4. The Applicant acknowledges that this approval shall constitute approval of the SPA Entitlements as set forth under that certain First Amendment to the LOA, recorded on March 20, 2013 as Document No. 2013-0176117.
5. Prior to approval of any Project proposing private development of property designated for a school use, prior to the expiration of the school site reservation, the Applicant shall:
 - a. Provide evidence and proof of agreement from the applicable school district that the site has not been determined by the district to be needed for use as a school site.
 - b. Obtain approval of a SPA and Administrative Amendment approving the underlying use for the site(s) pursuant to SPA Section 9.3.2.B.
6. All of the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, assigns and representatives of the Developer as to any or all of the Property. For the purpose of this document "Developer" shall have the same meaning as "Applicant."
7. If any of the terms, covenants or conditions contained herein shall 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 including issuance of building permits, deny, or further condition the subsequent approvals that are derived from the approvals herein granted, institute and prosecute litigation to compel their compliance

with said conditions and/or seek damages for their violation.

8. The Applicant shall indemnify, protect, defend and hold the City its agents, officers and employees harmless from and against any and all claims, liabilities and costs, including attorneys' fees, arising from challenges to the Village 9 Sectional Planning Area Plan and Tentative Map Environmental Impact Report (CV-EIR-10-04) Mitigation Monitoring and Reporting Program for the Project, the Otay Ranch Village 9 Sectional Planning Area (SPA, PCM-09-19) Plan, and/or any and all entitlements issued by the City in connection with the Project. The Applicant and the City agree that the indemnity provisions contained in the Development Agreement satisfy this condition.
9. The Applicant shall comply with all conditions of approval, guidelines, policies, and any other applicable requirements of the following plans and programs, as amended from time to time: The City of Chula Vista Municipal Code; the Chula Vista Subdivision Manual; City of Chula Vista Multiple Species Conservation Program (MSCP) Subarea Plan; City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development and Redevelopment Projects; the City of Chula Vista Grading Ordinance, CVMC 15.04; the State of California Subdivision Map Act; the City of Chula Vista General Plan; the City's Growth Management Ordinance; Chula Vista Design Manual; Chula Vista Landscape Manual; Chula Vista Fire Facility Master Plan, and Fire Department Policies and Procedures; Otay Ranch General Development Plan, Otay Ranch Resource Management Plan (RMP) Phase 1 and Phase 2, including the Preserve Conveyance Schedule; City of Chula Vista Adopted Parks and Recreation Master Plan, Otay Ranch Wide Affordable Housing Plan; Otay Ranch Overall Design Plan; Otay Ranch Village 9 Sectional Planning Area (SPA, PCM-09-19) Plan and supporting appendices, including: Public Facilities Finance Plan (PFFP), Affordable Housing Plan, Air Quality Improvement Plan (AQIP), Agricultural Plan, Fire Protection Plan, Non-Renewable Energy Conservation Plan, Preserve Edge Plan, and Water Conservation Plan (WCP), as amended from time to time; and Village 9 Tentative Map (TM) CVT-09-05. The Project shall comply with all mitigation measures specified in the Otay Ranch Village 9 Sectional Planning Area Plan and Tentative Map Environmental Impact Report (CV-EIR-10-04) Mitigation Monitoring and Reporting Program, to the satisfaction of the Development Services Director.
10. The Applicant acknowledges and agrees to comply with the provisions of the City of Chula Vista Greenbelt Master Plan (September 16, 2003) as expressed in the SPA Plan.
11. The Project shall satisfy the requirements of the Parkland Dedication Ordinance (PDO) pursuant to Chula Vista Municipal Code Chapter 17.10. The Ordinance establishes a requirement that the project provide three (3) acres of local parks and related improvements per 1,000 residents. Local parks are comprised of community parks and neighborhood parks. Overall park obligation shall be met through the payment of fees,

dedication of land, or a combination thereof in a manner acceptable to the Director of Development Services.

12. Phasing approved with the SPA Plan may be amended subject to approval by the Director of Development Services and the City Engineer.

13. The Applicant shall enter into supplemental agreement(s) with the City, prior to approval of each Final Map for any phase or unit, whereby:

a. The Developer agree(s) that the City may withhold building permits for any units within the Project Site in order to have the Project comply with the Growth Management Program; or, if any one of the following occur:

i. Regional development threshold limits set by a Chula Vista transportation-phasing plan, as amended from time to time, have been reached.

ii. Traffic volumes, level of service, public utilities and/or services either exceed the adopted City threshold standards or fail to comply with the then effective Growth Management Ordinance and Growth Management Program and any amendments thereto.

iii. The project's required public facilities, as identified in the Public Facilities Finance Plan (PFFP), or as amended or otherwise conditioned, have not been completed or constructed in accordance with the project entitlements including the Development Agreement to the satisfaction of the City. The Developer may propose changes in the timing and sequencing of development and the construction of improvements affected. In such case, the PFFP may be amended after review and approval by the City's Director of Development Services and the City Engineer. The Developer agree(s) that the City may withhold building permits for any of the phases of development identified in the PFFP for the Project if the project's required public facilities, as identified in the PFFP or in accordance with the Development Agreement are not meeting the City's standard operating thresholds. Public utilities shall include, but not be limited to, air quality, drainage, sewer and water.

14. After final SPA approval, the Applicant shall submit electronic versions of all SPA documents, including text and graphics, to the Development Services Department in a format specified and acceptable to the Development Services Director.

15. The Applicant shall comply with the Fire Department's codes and policies for Fire Prevention. As part of any submittal for design review, a fire access and water supply

plan prepared by a licensed engineering firm, which has been determined to be qualified in the sole discretion of the Fire Marshall, shall be submitted for approval by the City of Chula Vista Fire Marshall. The plan shall detail how and when the Applicant shall provide the following items either prior to the issuance of building permit(s) for the Project, or prior to delivery of combustible materials on any construction site on the Project, whichever occurs earlier:

- a. Water supply consisting of fire hydrants as approved and indicated by the Fire Department during plan check to the satisfaction of the Fire Marshall. Any temporary water supply source is subject to prior approval by the Fire Marshal.
- b. Emergency vehicle access consisting of a minimum first layer of hard asphalt surface or concrete surface, with a minimum standard width of 15 feet.
- c. Street signs installed to the satisfaction of the City Engineer. Temporary street signs shall be subject to the approval of the City Engineer and Fire Marshall. Locations and identification of temporary street signs shall be subject to review and approval by the City Engineer and Fire Marshall.

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 annul 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 OF RESOLUTION OF APPROVAL

The Property Owner and the Developer shall execute this document by signing the lines provided below, said execution indicating that the Property Owner and Developer have each read, understood and agreed to the conditions contained in Resolution No. [REDACTED], and will implement same to the satisfaction of the Development Services Director. Upon execution, this document and a copy of Resolution No. [REDACTED] shall be recorded with the County Clerk of the County of San Diego, at the sole expense of the Property Owner and/or Developer, and a signed, stamped copy returned to the City Clerk. Failure to return a signed and stamped copy of this recorded document within thirty days of recordation to

the City Clerk shall indicate the Property Owner/Developer's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Developer

Date

VII. CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the forgoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, and any of such conditions fail to be so implemented and maintained according to the their terms, the City shall have the right to revoke or modify all approvals herein granted, deny or further condition issuance of future building permits, deny, revoke or further condition all certificates of occupancy issued under the authority of approvals herein granted, instituted and prosecute litigate or compel their compliance or seek damages for their violations. No vested rights are gained by Applicant or successor in interest by the City approval of this Resolution.

VIII. INVALIDITY; AUTOMATIC REVOCATION

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

BE IT FURTHER RESOLVED that based on the above-referenced Findings and Conditions of Approval the City Council does hereby approve the Village 9 SPA Plan.

Presented by:

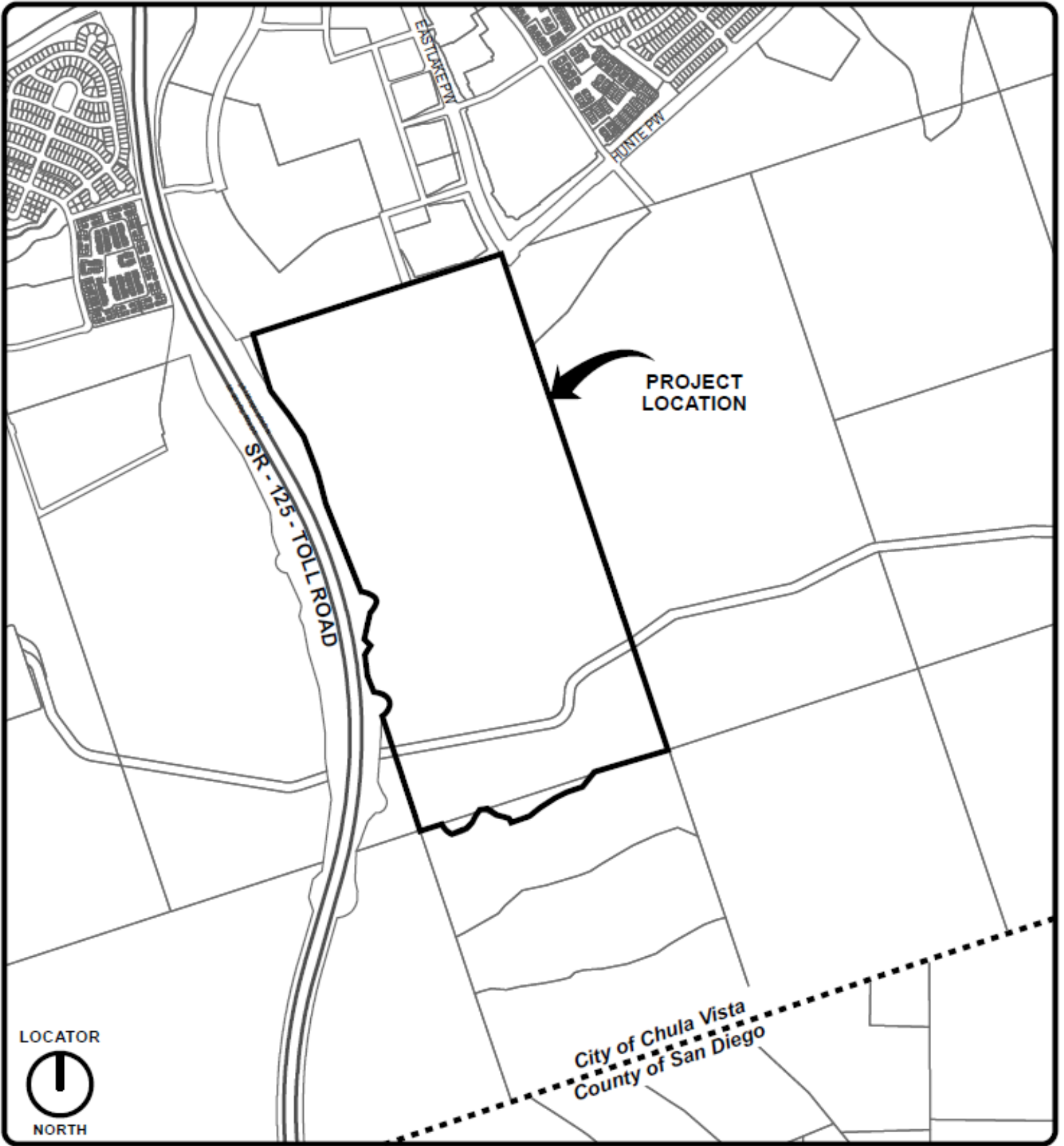
Approved as to form by:

Resolution No. _____

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Kelly Broughton, FASLA
Director of Development Services

Glen R. Googins
City Attorney



LOCATOR

NORTH

EXHIBIT "A"