

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA APPROVING TENTATIVE SUBDIVISION  
MAP CVT20-0002 (PCS20-0002) FOR A 135.7-ACRE SITE FOR  
718 MULTI-FAMILY RESIDENTIAL UNITS, KNOWN AS THE  
SUNBOW II, PHASE 3 PROJECT

WHEREAS, the area of land which is the subject of this Resolution is represented in Exhibit A, attached hereto and incorporated herein by this reference, and commonly known as Sunbow II, Phase 3, and for the purpose of general description consists of 135.7-acres within the Sunbow II Planned Community generally located at the southeast corner of Brandywine Avenue and Olympic Parkway (Project Site); and

WHEREAS, on February 20, 1990, the City Council of the City of Chula Vista approved the Sunbow II Sectional Planning Area (SPA) Plan (Resolution No. 15524), inclusive of a 46.0-acre parcel designated for an Industrial Park, known as Planning Area 23 (PA23); and

WHEREAS, since approval all other parcels covered by the Sunbow II SPA have been built out and the PA23 site has remained vacant; and

WHEREAS, on January 7, 2020, the City Council of the City of Chula Vista approved a Community Benefits Agreement (Resolution No. 2020-003) with ACI Sunbow, LLC (Applicant/Owner), to allow the Owner to process entitlements to consider the conversion of the PA23 land from industrial to residential uses and in exchange would provide funding that can be used by the City to direct the construction of a job enhancing use in Eastern Chula Vista or other signature project; and

WHEREAS, applications to consider such amendments to the City of Chula Vista General Plan (MPA20-0012), Sunbow II General Development Plan (MPA20-0013), Sunbow II, Phase 3 SPA Plan (MPA20-0006) and approval of an associated Tentative Map (PCS20-0002) and Development Agreement (MPA21-0014) were filed with the City of Chula Vista Development Services Department on February 26, 2020 by the Applicant; and

WHEREAS, the Applicant proposes to rezone 67.5-acres of developable land on the Project Site from light industrial to residential uses resulting in up to 534 multi-family medium-high-density and 184 multi-family high-density residential dwelling units (718 total units) on six parcels and designate the remaining 68.2-acres as Multiple Species Conservation Program (MSCP) land, Poggi Creek Conservation Easement areas and a conserved wetland resource area on sixteen parcels (Project); and

WHEREAS, the Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that there is substantial evidence, in light of the whole record, that the Project may have a significant effect on the environment; therefore, the Director of Development Services has caused the preparation of an Environmental Impact Report, EIR20-0002; and

WHEREAS, the Applicant requests approval of Tentative Map CVT20-0002 (PCS20-0002) to subdivide the Project Site into twenty-two lots for the development of 718 residential units (6 lots), a community purpose facility (1 lot), Poggi Creek Conservation Easement (3 lots), open space (9 lots) and open space preserve (3 lots); 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 and voted 0-6 recommending the City Council deny the approval of the Project, citing that further analysis related to the Jobs Enhancement Fund and a mix of land uses on the site be considered; and

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

WHEREAS, the City Clerk set the time and place for the City Council hearing on the Project application and notice of said hearing, together with its purpose, 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 City Council of the City of Chula Vista held a duly noticed public hearing to consider the Project at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, and said hearing was thereafter closed; and

WHEREAS, immediately prior to this action, the City Council considered Final Environmental Impact Report (EIR20-0002), pursuant to Resolution No. 2021-A; and

WHEREAS, immediately prior to this action, the City Council approved a General Plan Amendment (MPA20-0012) and Sunbow II General Development Plan Amendment (MPA20-0013), pursuant to Resolution No. 2021-B; and

WHEREAS, immediately prior to this action, the City Council approved the Sunbow II, Phase 3 SPA Plan Amendment (MPA20-0006), pursuant to Resolution No. 2021-**C**; and

WHEREAS, the final step of Project approval will include the consideration of a Development Agreement between the City and Applicant (MPA21-0014).

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

I. 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, is in conformance with the elements of the City's General Plan, based on the following:

1. Land Use

The General Plan land use designation is Residential Medium-High (11-18 dwelling units per gross acre) and High (18-27 dwelling units per gross acre). Five of the proposed parcels will be developed at a medium-high density range of 13.3 to 15.4 dwelling units per gross acre and the remaining at a high density of 24.1 dwelling units per gross acre, which is within the allowable density and permitted number of dwelling units.

2. Circulation

All off-site public streets required to serve the subdivision already exist or will be constructed or paid for by the Applicant in accordance with the Conditions of Approval. The on-site public streets are designed in accordance with the City design standards and/or requirements and provides for vehicular and pedestrian connections. The on-site private streets are designed consistent with the Sunbow II SPA Plan and Tentative Map.

3. Public Facilities

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 Project Area is within the boundaries of the Otay Water District (OWD) for water service. The OWD has existing and planned facilities in the vicinity of the Proposed Project and water service can be provided by expanding the existing system.

4. Housing

The Project is consistent with the density prescribed within the Residential Medium-High and High General Plan designation and provides additional opportunities for multi-family residential home ownership in the eastern portion of the City. The Project will also comply with the City's Balanced Communities Policy through alternative compliance as specified in the Project's Development Agreement. The deed restricted residential units are to remain within this identified area of the SPA and are non-transferrable.

5. Growth Management

A Supplemental Public Facilities Finance Plan (PFFP) has been prepared for the Project, as required by the Growth Management Element. The PFFP requirements have been included in the Project's Conditions of Approval.

*Circulation*

The surrounding street segments and intersections including those along Olympic Parkway will continue to operate at the current Level of Service in compliance with the City's traffic threshold standard with the proposed project traffic. No adverse impact to the City's traffic threshold standards would occur as a result of the proposed project.

*Schools*

The Project Site is located in the attendance area of Valle Lindo Elementary School, within the boundaries of the Chula Vista Elementary School District (CVESD). The Project is also within the attendance area of Rancho Del Rey High School, Otay Ranch High School, and Chula Vista Adult School, within the Sweetwater Union High School District (SUHSD). The Project is within the boundaries of CVESD Community Facility District (CFD) No. 4 and SUHSD CFD No. 4, which will fully mitigate the Project's impact on local schools.

*Sewer System*

The proposed onsite sewer system consists of gravity sewer lines within Streets "A" and "B" that will convey flow to the existing Poggi Canyon Interceptor in Olympic Parkway.

Based on the average flow presented in Table 6 and a peak factor of 2.33 per the City Subdivision Manual, the projected peak flow for the Proposed Project is 0.31 mgd. An 8-inch gravity sewer line within Street “A” with a minimum slope of 1.0 percent is adequate to convey total project flow. Private sewer lines will be connected to this 8-inch public sewer line and extended to the building sewer laterals.

#### *Drainage*

The drainage system will collect stormwater through a series of swales, catch basins, inlets and culverts that direct stormwater flows to two onsite basins for purposes of water quality and hydromodification. Onsite storm drain facilities include a series of storm drainpipes within Streets “A” and “B” and the private streets within the residential parcels. A by-pass system of pipes carries natural or treated runoff in separate pipes to discharge into Poggi Creek.

### 6. Open Space and Conservation

The Project proposes multi-family homes that meet the minimum open space requirement per the Sunbow II SPA Plan, Planned Community District Regulations. The Project includes 63.6-acres designated MSCP Preserve open space, 4.3-acres of Poggi Creek Conservation Easements and a 0.3-acre conserved wetland resource area. The development of the site is consistent with the goals and policies of the Conservation Element.

### 7. Parks and Recreation

The Project would increase population growth, with each multi-family unit generating the need for 341 square feet of development parkland. The 718 multi-family units within Planning Area 23 of the Sunbow II Phase 3 SPA Plan generates a parkland obligation of 5.6 acres. In order to satisfy this obligation, the Project is required to pay a Park Benefit Fee in accordance with the Project’s Development Agreement and will not be providing the 5.6 acres of development parkland within the development.

### 8. Safety

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.

9. Noise

The Project has been reviewed for compliance with the Noise Element and will comply with applicable noise measures at the time of issuance of Building Permits.

10. Scenic Highway

The Project Site is not located adjacent to or visible from a designated scenic highway.

- 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 certifies that it 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 residential development because it is generally level and is located adjacent to existing residential developments. The Project conforms to all standards established by the City for a residential development. The conditions herein imposed on the grant of permit or other entitlement herein contained is approximately proportional both in nature and extent to the impact created by the proposed development.
- F. Pursuant to Government Code Section 66474 (a)-(g) of the Subdivision Map Act, the City Council hereby finds that the proposed project:
  - 1. Is consistent with the Chula Vista General Plan, as specified in Section 65451, and land use, transportation, economic development, housing, public facilities and services, environmental and growth management objectives and policies.
  - 2. Design or improvement is consistent with the General Plan. The General Plan establishes the vision for the City, and the Project defines the land use character and mix of uses, design criteria, circulation system, and public infrastructure requirements for the Project. The Tentative Map is consistent with the General Plan.

3. The Project Site is suitable for the proposed density of development. The Project's zoning supports the design of a viable residential project that will create a strong sense of place for residents. The densities are in accordance with the General Plan for the area.
4. The Project Site is physically suitable for the type of development. The Project is surrounded by other in-fill residential projects. The Project is designed to be compatible with the surrounding community.
5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Project has been designed to provide a landscaped buffer for the surrounding in-fill residential projects and to comply with CEQA.
6. The design of the subdivision or type of improvements is not likely to cause serious public health problems because the Project has been designed to provide quality open space and amenities.
7. Neither the Subdivision nor the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

## II. TENTATIVE SUBDIVISION MAP CONDITIONS OF APPROVAL

Unless otherwise specified or required by law: (a) the Conditions of Approval and Code requirements set forth below shall be completed prior to recordation of the related Final Map as determined by the Director of Development Services and the City Engineer, or designees, 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. 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.

**A. GENERAL/DEVELOPMENT SERVICES**

1. The Applicant, or his successor in interest, shall improve the Project Site in accordance with the approved Sunbow II, Phase 3 Tentative Subdivision Map No. CVT20-0002 (PCS20-0002), on file in the Planning Division, the conditions contained herein, and Title 19 of the Chula Vista Municipal Code (“CVMC” or “Municipal Code”).
2. The Project shall comply with the General Development Plan Amendment and the Sunbow II, Phase 3 SPA Plan Amendment.
3. The Applicant shall implement, to the satisfaction of the Director of Development Services and the City Engineer, the mitigation measures identified in EIR20-0002 Mitigation Monitoring and Reporting Program (MMRP) for the Project, within the timeframe specified in the MMRP.
4. Prior to initiating any construction related activities requiring a clearing and grubbing or Grading Permit, the Applicant shall obtain a Habitat Loss Incidental Take Permit pursuant to Section 17.35 of the Municipal Code for impacts to Chula Vista MSCP Tier I, II, and II vegetation communities as shown in Table 5.3-11, in accordance with Project Habitat Mitigation Ratios and Acreages of the EIR and in accordance with Table 5-3 of the City of Chula Vista MSCP Subarea Plan.
5. Prior to Final Map approval, the Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for deposit account DDA0637.
6. The project will be serviced for domestic water and fire with a public waterline constructed in Streets A and B, in accordance with Otay Water District (OWD) standards. The applicant shall conform all project related documents to show such waterlines as public. Private domestic and fire waterlines can cross Streets A and B as needed to provide OWD looping requirements.

**Land Development Division/Landscape Architecture Division:**

7. The Applicant shall comply with all applicable City of Chula Vista Standard Tentative Map Conditions (STMC) per Section 5-300 of the City Subdivision Manual as referenced hereto and incorporated herein and as approved and amended from time to time, to the satisfaction of the Director of Development Services and City Engineer or their designees.



8. Prior to the First Building Permit the Applicant shall pay the fair share contribution to the Adaptive Traffic Signal Control (ATSC) modules to each signalized intersection along the Olympic Parkway corridor between the I-805 Ramps and La Media Road. The Applicant's fair share contribution is shown in the table below:

Intersection	Peak Hour	Project % Traffic Entering <sup>a</sup>	Project Fair Share
1. Olympic Pk./I-805 SB Ramps	AM	2.6%	3.1%
	PM	3.6%	
2. Olympic Pk./I-805 NB Ramps	AM	3.8%	4.2%
	PM	4.6%	
3. Olympic Pk./Oleander Av.	AM	5.0%	5.4%
	PM	5.8%	
4. Olympic Pk./Brandywine Av.	AM	5.3%	6.0%
	PM	6.6%	
5. Olympic Pk./project driveway (west)	AM	b	b
	PM	b	
6. Olympic Pk./project driveway (east)	AM	b	b
	PM	b	
7. Olympic Pk./Heritage Rd.	AM	1.6%	1.9%
	PM	2.1%	
8. Olympic Pk./Santa Venetia St.	AM	1.3%	1.5%
	PM	1.6%	
9. Olympic Pk./La Media Rd.	AM	1.0%	1.1%
	PM	1.2%	
<sup>a</sup> Near-Term conditions, Table 14-1, Transportation Impact Analysis, Sunbow II, Phase 3 (June 22, 2020).			
<sup>b</sup> Traffic signal to be constructed by the project with adaptive system incorporated and fully funded by the applicant.			

9. Prior to final inspection for each unit and in accordance with the Development Agreement, the Applicant shall pay a Park Benefit Fee equal to the PAD fees that would have otherwise been due pursuant to Chapter 17.10, using the PAD fee rates in effect as of the Effective Date of the Development Agreement.
10. In accordance with and as defined in the Development Agreement, the Owner shall pay the Jobs Enhancement Fund in three separate payments prior to issuance of the first (1<sup>st</sup>) building permit, one-hundredth (100<sup>th</sup>) building permit and two-hundredth (200<sup>th</sup>) building permit.

11. Prior to approval of a Grading Plan or Building Permit which includes any private facilities within the public right-of-way or City easement, the Applicant shall enter into an Encroachment Agreement with the City.
12. Proposed Fire Access Road(s) shall meet H-20 Loading requirements or shall be designed for a Traffic Index (T.I.) of 5.
13. The Applicant shall add the following note on the Public Improvement Plans: Public Works Operations Department shall inspect any existing sewer laterals and connections that are to be used by the new development. Laterals and connections may need replacement as a result of this inspection which shall be accomplished by the Applicant at the Applicant's sole expense.
14. Prior to beginning any earthwork activities at the site and before issuance of Building Permits in accordance with Municipal Code Title 15.04 the Applicant shall submit Grading Plans and associated slope Landscape and Irrigation Plans to the City. Plans shall be in conformance with the City's Subdivision Manual and the City's most current Best Management Practices; BMP Design Manual. A copy of the BMP Design Manual is available on the City of Chula Vista website at: <http://www.chulavistaca.gov/departments/public-works/services/storm-water-pollution-prevention/documents-and-reports>.
15. Prior to the issuance of the first Grading or Construction Permit, the Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement to perpetually maintain and fund all Post Construction Permanent BMP facilities located within the Project to the satisfaction of the Director of Development Services.
16. Prior to approval of the Final Map, the Applicant shall enter into an agreement, in a form acceptable to the City Engineer and City Attorney, granting permission for the City of Chula Vista to permit the construction of drainage/improvements that will discharge drainage onto Owner's property as shown on the CVT # 20-0002 and agreeing to indemnify, defend, and hold harmless the City, its agents and employees from and against any and all liability, claims, damages or injuries to any person, including injury to any City employees, and any and all claims which arise from, are connected with, or are in any way related to the performance of or failure to perform the work or other obligations, or are caused or claimed to be caused by the acts or omissions of Owner, or Owner's agents or employees, and all expenses of investigating and defending against same; provided, however, that this indemnification and hold harmless shall not include any claim arising from the sole negligence or willful misconduct of the City, its agents or its employees.

17. The Applicant shall provide a minimum 3-foot wide level bench on Grading Plans, for landscaping maintenance access adjacent to freestanding walls, fencing or sound walls to be constructed adjacent to perimeter open space slopes (OS-7 through OS-12) with a gradient of 2:1 or greater.
18. Prior to issuance of any Grading or Building Permit based on plans proposing the creation of down slopes adjacent to public or private streets, the Applicant shall obtain the City Engineer's approval of a study to determine the necessity of providing guard rail improvements at these locations. The Applicant shall construct and secure any required guard rail improvements in conjunction with the associated Construction Permit as determined by and to the satisfaction of the City Engineer. The guard rail shall be installed per CalTrans Traffic Manual and Roadside Design Guide requirements and American Association of State Highway and Transportation Officials (AASHTO) standards to the satisfaction of the City Engineer.
19. Prior to the issuance of any Grading Permit, the Applicant shall provide a notarized letter of permission for all off-site grading work.
20. The Applicant shall apply for Grading Permit(s) consistent with the applicable provisions of the City's Municipal Code and Subdivision Manual, reviewed and approved by the Land Development Division. These permit(s) shall reflect all grading required to create building pads, private roads and storm drainage system necessary to address drainage leaving the site.
21. Prior to issuance of any Grading Permit impacting on-site existing monitoring wells, the Applicant shall submit and gain approval of a Well Destruction Permit from the County of San Diego Department of Environmental Health and shall provide the City with a Closure Memorandum from the County of San Diego Department of Environmental Health upon completion of the Well Destruction Permit.
22. The Applicant shall dedicate for public use all the public streets and public utilities within the subdivision boundary on the Final Map as shown on the approved Tentative Map (CVT No. 20-0002) and shall construct or enter into an agreement to construct and secure all streets, utilities, traffic signals, and intersection improvements as shown on the approved Tentative Map (CVT No. 20-0002) to the satisfaction of the City Engineer and City Attorney.
23. Prior to issuance of any Construction Permit, the Applicant shall submit, for review, street cross-sections at 25' intervals depicting existing and proposed street cross-fall and limits

of grind and overlay required for the intersection improvements at Olympic Parkway and Streets 'A' and 'B' to the satisfaction of the City Engineer.

24. Prior to approval of the First Final Map or Improvement Plan, the Applicant shall provide the City with a Stopping Sight Distance and a Corner Sight Distance analysis which demonstrates compliance with Chula Vista Standard Drawing RWY-05 for Corner Sight Distance and Stopping Sight Distance and shall provide easements on the Final Map, as applicable, to the satisfaction of the City Engineer.
25. All private sewer laterals and storm drains connecting each building unit to the City-maintained public facilities shall be privately maintained.
26. All proposed sidewalks, walkways, pedestrian ramps, and disabled parking shall be designed to meet the City of Chula Vista Design Standards, American's with Disabilities Act (ADA) Standards, and Title 24 standards, as applicable.
27. Prior to approval of Improvement Plans for the Project, the Engineer of Work shall submit and obtain approval by the City Engineer a waiver request for all subdivision design for public improvements not specifically waived on the Tentative Map, and not conforming to adopted City standards. The Engineer of Work request shall outline the requested subdivision design deviations from adopted City standards and state that in his/her professional opinion, no safety issues will be compromised. The waiver is subject to approval by the City Engineer in the City Engineer's sole discretion.
28. The Applicant shall provide, Public Drainage and Access Easements on the Final Map over Open Space Lots OS-1, 2, 3, 4, 5, 6a, 6b, 7 and 8 for the existing Poggi Creek channel storm drains laterals and the two (2) existing box culverts within the subdivision boundary to the satisfaction of the City Engineer.
29. On the Final Map, the Applicant shall provide an easement for private access and utility purposes, to serve lots not feasibly served by a public street. If the engineering design of the lot has not been finalized, at the time of Final Map approval, a note, approved by the City Engineer, shall be placed on the Final Map, stating that such an easement will be granted by the Applicant or HOA for these lots as required in the CC&Rs. Said note shall reference Chula Vista Municipal Code Sections 18.32.030 and 18.44.010.
30. Prior to approval of any Final Map, the Applicant shall enter into a Grant of Easements, Access and Maintenance Agreement which shall cover all Homeowners Association

(HOA) maintained improvements and shall also include all storm water BMP infrastructure constructed and located in any public right-of-way to the satisfaction of the City Engineer.

31. The Applicant shall provide easements on the Final Map over portions of Private Open Space Lots 5 and 8 to ensure access to public storm drain facilities, to the satisfaction of the City Engineer.
32. Prior to the issuance of the First Building Permit, the Applicant shall provide documentation to the City of meetings and correspondence with MTS regarding implementation of local bus stops or other transit service to the Project, to the satisfaction of the Director of Development Services.
33. Prior to approval of any Final Map, the Applicant shall present verification to the City Engineer in the form of a letter from the Otay Water District that the subdivision will be provided adequate water service and long-term water storage facilities.
34. Prior to the issuance of any Grading Permit impacting the existing on-site Otay Water District recycled water line, the Applicant shall provide evidence to the satisfaction of the City Engineer, that the Applicant has complied with the following:
  - a. The Otay Water District has approved plans to relocate the existing Otay Water District Recycled Water line as shown on the approved Tentative Map (CVT No. 20-0002).
  - b. The Applicant has entered into an agreement with Otay Water District to construct and secure the relocation of the Otay Water District Recycled Water line.
  - c. The Applicant has provided evidence that Otay Water District has abandoned or has agreed to abandon any water main easements or portions thereof not needed as a consequence of the relocation of the Otay Water District Recycled Water line and the dedication of new right-of-way.
  - d. The Applicant has entered 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, suit, 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 relocation of the Otay Water District recycled water line and the closure and abandonment of the old waterline, or from any and all City action, conduct or matter related thereto.
  - e. The Applicant shall maintain recycled water service that is to be relocated throughout the duration of construction or provide temporary service in accordance with Otay Water District Regulations.

35. Prior to approval of the Final Map, the Applicant shall provide an easement to the Otay Water District on the Final Map, or in the alternative, by separate instrument for the portion of the public recycled water main adjacent to Street A right of way as shown on the Tentative Map, to the satisfaction of the City Engineer. If the easement is provided by separate instrument, said easement shall be shown on the Final Map. Said easement shall be sufficiently wide to enable the public recycled water line to be located clear of the parkway tree planting.
36. Prior to City approval of Streets A & B Improvement Plans showing the project's public recycled water line, the Applicant shall obtain Otay Water District signatures on said improvement plans.
37. The Applicant shall use benchmarks within the City of Chula Vista Benchmark network for all mapping purposes.
38. 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 Director of Development Services and City Engineer.
39. With the approval of each, the Final Map, Grading Plan and Improvement Plan, the Applicant shall upload digital files in a format such as AutoCAD DWG or DXF (AutoCAD version 2000 or above), ESRI GIS shapefile, file, or personal geodatabase (ArcGIS version 9.0 or above). The files should be transmitted directly to the GIS section using the city's digital submittal file upload website @ <http://www.chulavistaca.gov/goto/GIS>. The data upload site only accepts zip formatted files.
40. Prior to approval of any Final Map, the Applicant shall submit Covenants, Conditions and Restrictions (CC&Rs) as approved by the City Attorney to the City Engineer and the Director of Development Services Department. Said CC&Rs shall include the following:
  - a. Indemnification of City for private sewer spillage.
  - b. Indemnification of City – General.
  - c. Listing of maintained private facilities.
  - d. The City's right but not the obligation to enforce CC&Rs.
  - e. Provision that no private facilities shall be requested to become public unless all homeowners and 100% of the first mortgage obligee have signed a written petition.
  - f. Maintenance of all walls, fences, lighting structures, paths, recreational amenities and structures, private sewage facilities, drainage structures and landscaping.

- g. Implement education and enforcement program to prevent the discharge of pollutants from all on-site sources to the storm water conveyance system.
  - h. Said CC&Rs shall be consistent with CVMC Chapter 18.44, the Subdivision Ordinance, and shall be recorded concurrently with the Final Map.
  - i. Trip reduction strategies:
    - 1. Provide ride share coordination services to match residents interested in carpooling;
    - 2. Coordinate with nearby schools to match residents interested in carpooling to/from schools;
    - 3. Provide on-site transit opportunities information; and
    - 4. Encourage bicycling by providing on-site bicycle infrastructure such as bike racks
41. The CC&Rs shall contain a provision that provides all new residents with a disclosure document that discloses the following information during any real estate transaction or prior to lease signing:
- a. NOTICE OF AIRPORT VICINITY - as required by the Brown Field Airport Land Use Compatibility Plan (ALUCP), 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. Prior to the First Final Map, the Applicant shall record the "Airport Overflight Agreement" with the San Diego County Recorder's Office and provide the City of Chula Vista with a conformed copy. Each prospective homeowner shall acknowledge receipt of the Airport Overflight Agreement, confirming they have been informed of the vicinity of the airport prior to the purchase or lease of a home.
  - b. NOTICE OF LANDFILL – This property is located in the vicinity of the Otay Landfill which is a solid waste disposal facility. Customary solid waste disposal operations may include, but are not limited to, noise, odors, dust, vibrations, birds and vectors. Individual sensitivities to those annoyances can vary from person to person. You may wish to consider which of these 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 San Diego County Recorder's Office and a conformed copy submitted to the City of Chula Vista as part of the Project approval. Each prospective homeowner shall sign the disclosure document confirming they have been informed of the vicinity of the landfill prior to the purchase or lease of a home.

42. The Applicant shall submit a HOA budget for review and approval by the City Engineer. Said budget shall include the following maintenance activities:
  - a. Private streets, private sewer and storm drain maintenance
  - b. Water quality facility maintenance and inspection.
43. The Applicant shall underground all utilities serving the subject property and existing utilities located within or adjacent to the subject property in accordance with the applicable Municipal Code Sections. Further, all new utilities serving the subject property shall be undergrounded prior to the issuance of Building Permits.
44. Prior to approval of any Design Review Applications, the Applicant shall submit the Landscape Master Plan to the City for approval.
45. Prior to submittal of the first Landscape and Irrigation Plans for the Project, the Landscape Master Plan shall be sufficiently complete to enable approval by the Director of Development Services.
46. Prior to approval and issuance of the first Building Permit, the Applicant shall submit complete landscape construction documents for approval demonstrating that the installed landscape will comply with the City of Chula Vista Landscape Water Conservation Ordinance (LWCO), Chapter 20.12 of the Municipal Code.
47. No building permit shall be issued until the City has approved any changes to the Entitlements that may be necessary should the Applicant not be granted a deed transferring fee simple title of land (the proposed buttress along the southern property line of the project) in recordable form, duly executed by the City, free and clear of all recorded liens, encumbrances, assessments, easements, leases and taxes; except those which are reasonably approved by the Applicant and such transfer of land is necessary to be in conformance with the Entitlements.

**Planning:**

48. Prior to issuance of the 240<sup>th</sup> Building Permit, the Applicant shall construct the on-site Community Purpose Facility (CPF) consistent with Exhibit 23: Conceptual Community Recreation Area as depicted in the Sunbow II, Phase 3 SPA Plan Amendment and pay the



applicable CPF Benefit Fee for the remaining obligation in accordance with the Development Agreement.

49. Prior to issuance of any Building Permit, the Applicant shall submit separate Design Review Applications for each of the six residential neighborhoods to facilitate the City's issuance of separate Design Review project numbers for each residential neighborhood. The Applicant shall package said separate Design Review Applications into one master Design Review Package to facilitate the City's comprehensive review of the entire Project Site.
50. Prior to the issuance of the two hundredth (200<sup>th</sup>) Building Permit for the Project, the Owner shall execute an amendment to the covenants and restrictions (Affordability Covenant) set forth in that certain Regulatory Agreement dated June 1, 2000, between the California Tax Credit Allocation Committee and Serena Sunbow, L.P. (Document No. 20000-0641390 in the San Diego County Recorder's Office, Nov. 27, 2000), in accordance with the Development Agreement.

**Fire Department:**

51. The Applicant shall include the design and permitting of underground fire service utilities as part of Development Services Department Private Improvement Plans or Building Permit Plans.

**III. The following on-going conditions shall apply to the Project Site as long as it relies on this approval:**

52. With the exception of those items as defined in the Development Agreement, approval of this request shall not waive compliance with any sections of the CVMC, nor any other applicable City Ordinances in effect at the time of Building Permit issuance.
53. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, Planning Commission members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Tentative Subdivision Map; (b) the City's approval of any environmental document prepared for this Project and (c) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the Tentative Subdivision Map contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Tentative

Subdivision Map where indicated below. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of the Property Owner's and Applicant's successors and assigns.

54. 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.
55. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista General Plan; the City's Growth Management Ordinance; Chula Vista Landscape Manual, Chula Design Plan and the Non-Renewable Energy Conservation Plan in effect on the Effective Date, as defined and as set forth in the Development Agreement. Plans may be subject to minor modifications by the appropriate department head, with the approval of the City Manager, however, any material modifications shall be subject to approval by the City Council.
56. 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. The Applicant shall be notified 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.

#### IV. 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 Government Code 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.

V. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property Owner and Applicant shall execute this document signing on the lines provided below, indicating that the Property Owner and Applicant have each read, understood and agreed to the conditions contained herein, and will implement same. 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/or Applicant, and a signed, stamped copy returned to the City's Development Services Department. Failure to return the signed and stamped copy of this recorded document within 10 days of recordation shall indicate the Property Owner/Applicant'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 Applicant

\_\_\_\_\_  
Date

VI. CONFORMANCE WITH CITY SUBDIVISION MANUAL

The City Council does hereby find that the Project is in conformance with the City of Chula Vista Subdivision Manual, CVMC Chapter 18.12 and the requirements of the Zoning Ordinance.

VII. 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, provisions, or conditions are determined by a Court of competent jurisdiction to be invalid, illegal, or unenforceable, this Resolution and the permit shall be deemed to be automatically revoked and of no further force and effect ab initio.

BE IT FURTHER RESOLVED that the City Council of the City of Chula Vista does, based on the findings, and the general and specific conditions included herein, hereby approve Tentative

Subdivision Map (CVT20-0002) for Sunbow II, Phase 3 in conjunction with the General Plan Amendment (MPA20-0012), Sunbow II General Development Plan Amendment (MPA20-0013), Sunbow II Sectional Planning Area (SPA) Plan (MPA20-0006) and FEIR (FEIR20-0002).

Presented by:

Approved as to form by:

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Tiffany Allen  
Director of Development Services

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Glen R. Googins  
City Attorney