

## RESOLUTION NO. 2024-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA CERTIFYING A FOURTH ADDENDUM (IS22-0002) TO THE FINAL SECOND TIER ENVIRONMENTAL IMPACT REPORT (FEIR 02-04) AND APPROVING AMENDMENTS TO THE CITY OF CHULA VISTA GENERAL PLAN (GPA22-0001); THE OTAY RANCH GENERAL DEVELOPMENT PLAN (GDPA22-0001); THE OTAY RANCH FREEWAY COMMERCIAL SECTIONAL PLANNING AREA PLAN AND OTHER ASSOCIATED REGULATORY DOCUMENTS (SPA22-0001); A ZONE CHANGE (ZC22-0001); THE TENTATIVE MAP (TM22-0002); AND DEVELOPMENT AGREEMENT

WHEREAS the areas of land, that is the subject matter of this resolution and for the purpose of general description is located east of State Route 125 (“SR-125”), south of Olympic Parkway, west of Eastlake Parkway, and north of Birch Road (“Project Site”); and

WHEREAS on March 24, 2022, a duly verified application was filed with the City of Chula Vista Development Services Department by General Growth Properties (GGP)-Otay Ranch L.P. (a wholly-owned subsidiary of Brookfield Property Partners, L.P.) (“Applicant” or “Developer”) requesting approval of amendments to the City of Chula Vista General Plan (GPA22-0001), the Otay Ranch General Development Plan (GDPA22-0001), and the Otay Ranch Freeway Commercial Sectional Planning Area (“SPA”) Plan (SPA22-0001), including the Planned Community District Regulations, to reflect the change in zoning from commercial to mixed-use residential to allow up to 840 residential units on the subject property (“Project”); and

WHEREAS the Director of Development Services has reviewed the proposed Project for compliance with the California Environmental Quality Act (“CEQA”) and determined that the Project was substantially covered in the previously adopted Final Environmental Impact Report (“FEIR”) for the Otay Ranch Freeway Commercial SPA Plan (FEIR 02-04; SCH #1989010154; adopted by City Council Resolution No. 2003-131 on April 1, 2003). Minor technical changes or additions to this document are necessary to account for the expected Project impacts; however, none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent document exist. A Fourth Addendum (IS22-0002) to FEIR 02-04 was prepared for the Project; and

WHEREAS the Director of Development Services set the time and place for a hearing before the Planning Commission, 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 boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS City Staff recommended that the City Planning Commission recommend that the City Council consider the certification of the Fourth Addendum to FEIR 02-04 (IS22-0002), and

consider the adopted actions to amend the City of Chula Vista General Plan (GPA22-0001), the Otay Ranch General Development Plan (GDPA22-0001), and the Otay Ranch Freeway Commercial SPA Plan (SPA22-0001), including the Planned Community District Regulations, to reflect a change in zoning from commercial to mixed-use residential to allow up to 840 multifamily dwellings on the subject property; and

WHEREAS after review and consideration of the Staff Report and related materials for the Project, the hearing on the Project was held at the time and place as advertised in the City Council Chambers, 276 Fourth Avenue, and the Planning Commission voted \_\_\_\_\_ to recommend to the City Council \_\_\_\_\_ of the subject amendments; and

WHEREAS the proceedings and all evidence introduced before the Planning Commission at the public hearing on the Project held on September 25, 2024, 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 a hearing before the City Council on 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 boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS after review and consideration of the Staff Report and related materials for the Project, the duly called and noticed public hearing on the Project was held before the City Council in the City Council Chambers, 276 Fourth Avenue, to hear public testimony with regard to the same, and the proceedings and any documents submitted to the City Council as the decision-makers shall comprise the entire record of the proceedings; and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Chula Vista, after hearing public testimony and staff’s presentation and after reviewing all of the subject documents, does hereby find, determine, and resolve as follows:

I. CERTIFICATION OF COMPLIANCE WITH CEQA

Pursuant to Section 15164 of the CEQA Guidelines the City Council finds the proposed modifications to the Otay Ranch Freeway Commercial FEIR (02-04) will result in only minor technical changes and additions which are necessary to make the document adequate under CEQA. The City Council, in the exercise of its independent review and judgment, therefore, certifies the Fourth Addendum to FEIR 02-04 as represented in Attachment 1 to the Staff Report, which is incorporated herein by this reference and on file in the office of the City Clerk.

II. GENERAL PLAN INTERNAL CONSISTENCY

The City Council hereby finds and determines that the General Plan, as amended, is internally consistent and shall remain internally consistent following amendments thereof by this Resolution as discussed and determined in the Otay Ranch Freeway Commercial Chula Vista General Plan Amendment Justification Report for the Project.

### III. ADOPTION OF GENERAL PLAN AMENDMENTS

In light of the findings above, the General Plan amendments, specifically the change in land use designation from commercial to mixed-use residential within Otay Ranch Freeway Commercial SPA Plan, as well as other modifications to circulation, are hereby approved and adopted in substantially the form presented in Attachment 3 attached to the Staff Report and incorporated herein and on file in the office of the City Clerk.

### IV. OTAY RANCH GENERAL DEVELOPMENT PLAN CONSISTENCY

The City Council hereby finds and determines that the Otay Ranch General Development Plan ("GDP"), as amended, is internally consistent and shall remain internally consistent following amendment thereof by this Resolution as discussed and determined in the Otay Ranch Freeway Commercial General Development Plan Amendment Report for the Project.

### V. ADOPTION OF OTAY RANCH GENERAL DEVELOPMENT PLAN AMENDMENTS

In light of the findings above, the Otay Ranch GDP amendments are hereby approved and adopted in the form as presented in Attachment 3 attached to the Staff Report and incorporated herein by this reference and on file in the office of the City Clerk.

### VI. SECTIONAL PLANNING AREA FINDINGS AND RELATED ADOPTION OF AMENDMENTS

A. *The proposed Sectional Planning Area plan, as amended, is in conformity with the Otay Ranch General Development Plan, as amended, any adopted specific plans, and the Chula Vista General Plan, as amended, and its several elements.*

The proposed SPA Plan amendment implements the Chula Vista General Plan and GDP. The current General Plan land use designations for the Freeway Commercial SPA Plan are Retail Commercial and Mixed Use Residential. The proposed project is consistent with these land use designations. It contains all the requisite land uses comprising Retail Commercial and Mixed Use Residential: commercial hotels, mixed-use development, multi-family residential housing, a public park and open space.

B. *The proposed Sectional Planning Area plan, as amended, would promote the orderly, sequentialized development of the involved Sectional Planning Area.*

The subdivision design consists of nine (9) residential lots, one (1) commercial lot, five (5) park lots, and private streets (four lots). The tentative map subdivision is planned to allow up to 840 residential units.

The Freeway Commercial SPA Public Facilities Financing Plan ("PFFP") permits non-sequential phasing by mandating specific facilities requirements for each phase to ensure

that the new Freeway Commercial SPA development in FC-1 is adequately served and City threshold standards are met.

The proposed project furthers the policy objective for “Urban Villages” to have “higher densities and mixed uses in the village cores,” “in transit focus areas” and to “provide a wide range of residential housing opportunities” which promotes a blend of for-sale and for-rent housing products and a range of densities integrated and compatible with other land uses in the area. The proposed project will support Smart Growth Principles, as it provides compact development oriented to pedestrians, bicyclists and transit, with shopping and recreational uses conveniently and centrally located and will minimize segregated and auto-dependent urban sprawl development patterns.

- C. *The proposed Sectional Planning Area plan, as amended, would not adversely affect adjacent land use, residential enjoyment, circulation, or environmental quality.*

The proposed modifications to land use and development standard provisions within the project site have been fully analyzed and will not adversely affect the circulation system and overall land uses as previously envisioned in the Otay Ranch GDP and Otay Ranch Freeway Commercial SPA Plan. The existing infrastructure (sewer, water, public services and facilities) has been determined to be adequate to serve the proposed project, as described in the Supplemental PFFP. Additionally, a Water Quality Technical Report, Traffic Impact Study, Noise Impact Report, Air Quality and Global Climate Change Evaluation, Sewer Service Technical Report and Water Service Technical Report have been prepared, reviewed and approved by City staff. A Fourth Addendum to FEIR 02-04 has been prepared to analyze the Project’s impacts. No additional environmental impacts were identified in the Fourth Addendum to FEIR 02-04.

## VII. 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 and Circulation

The proposed Project is in a community that provides a variety of residential, commercial, parks, open space, and school uses, as well as public and private improvements to serve the community. The proposed Project is consistent with the policies and objectives of the Chula Vista General Plan, the Otay Ranch GDP, and the Otay Ranch Freeway Commercial SPA Plan related to land use and circulation.

2. Economic Development

Otay Ranch Freeway Commercial is designed to help achieve the General Plan’s 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. The proposed Project is consistent with those objectives.

3. Public Facilities and Services

*Sewer*

Sewer capacity needs are conditioned under this Resolution.

*Parks*

Parks, recreation, and open space obligations are conditioned under this Resolution and other regulatory documents for this Project. Construction of park, recreation and open space identified in this Resolution are the responsibility of the Applicant.

4. Housing

Otay Ranch Freeway Commercial remains consistent with the Housing Element of the City's General Plan by providing for high-quality multifamily residential opportunities in the eastern portion of the City.

5. Environmental

FEIR 02-04 addressed the goals and policies of the Environmental Element of the General Plan and found development of this site to be consistent with those goals and policies. The proposed Project is an amendment that does not propose material changes to the approved Otay Ranch Freeway Commercial SPA Plan. Accordingly, The City Council, in the exercise of its independent review and judgment, certifies the Fourth Addendum to FEIR-02-04 as represented in Attachment 1 to the Staff Report, which is incorporated herein by this reference and on file in the office of the City Clerk.

- 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. Development of the Project 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. Pursuant to Government Code Section 66474 (a-g) of the Subdivision Map Act, the proposed Project meets the following requirements:
1. The proposed Project is consistent with applicable general and specific plans as specified in Section 65451 because the Otay Ranch Freeway Commercial SPA Plan is consistent with the General Plan's land use designations for Otay Ranch.
  2. Project design or improvement is consistent with applicable general and specific plans because the proposed Project's design is consistent with the General Plan, the Otay Ranch General Development Plan, and the Otay Ranch Freeway Commercial SPA Plan land use designations and intended circulation for Otay Ranch.

3. The Project Site is suitable for the proposed density of development.
  4. The Project Site is physically suitable for the type of development. The proposed Project is surrounded by existing planned community developments with available access and infrastructure to serve the proposed Project.
  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 habitats. The proposed Project has been designed to minimize landform disturbance that avoids permanent disturbance or injury to wildlife or their habitats.
  6. The design of the subdivision or type of improvements is not likely to cause serious public health problems because the proposed Project has been designed to have suitable separation between structures and parcels and is able to be served by fire and emergency services.
  7. The subdivision or the type of improvements will not 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. The proposed Project's roadways and utilities are within and are not in conflict with existing easements.
- E. The Project Site is physically suited for development and will be developed in conformance with the Otay Ranch Freeway Commercial SPA Plan and FEIR 02-04 and its Mitigation Monitoring and Reporting Program ("MMRP") and Addendums, which ensure that the Project Site is developed in a manner consistent with the standards established by the City for a master-planned community.
- F. The conditions herein imposed on the proposed Project are approximately proportional both in nature and extent to the impacts created by the Project, based upon the City's police powers and evidence provided by the record of the proceedings of the Fourth Addendum to FEIR 02-04.

#### VIII. TENTATIVE MAP CONDITIONS OF APPROVAL

1. Unless otherwise specified or required by law, the conditions and Chula Vista Municipal Code ("CVMC" or "Municipal Code") requirements set forth below shall be completed prior to the related Final Map as determined by the Director of Development Services and the City Engineer, or their 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.

2. Should conflicting wording or standards occur between these conditions of approval and any other City entitlement or approval document relating to the Project, any conflict shall be resolved by the City Manager or designee.
3. All development on the Project Site, generally located east of State Route-125 (SR-125), north of Birch Road, west of Eastlake Parkway, and south of Transit Guideway, by the Applicant, or his/her successors in interest shall be consistent with the Tentative Subdivision Map, Chula Vista Tract No. 22-0002 and the Development Agreement entered into between the City and the Applicant and approved by the City Council by Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, 2024 (Development Agreement).
4. The Project shall comply with approved General Plan Amendment (GPA22-0001), GDP Amendment (GDPA22-0001), SPA Plan Amendment (SPA22-0001), Tentative Subdivision Map (TM22-0002), the Development Agreement, and all supporting documents for the Project including but not limited to the Supplemental PFFP Plan, Parks, Recreation, Open Space and Trails Plan, Affordable Housing Plan, Non-Renewable Energy Conservation Plan, Air Quality Improvement Plan, Water Conservation Plan, Fire Protection Plan and the City of Chula Vista Standard Tentative Map Conditions on file in the Development Services Department, and incorporated herein.
5. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista General Plan; the CVMC; the Chula Vista Subdivision Manual and Standard Tentative Map Conditions (“STMC”) (Subdivision Manual Section 5-300); the City of Chula Vista Design and Construction Standards; the Development Storm Water Manual for Development & Redevelopment Projects; the Chula Vista Best Management Practices (“BMP”) Design Manual; the City of Chula Vista Grading Ordinance No. 1797; and the State of California Subdivision Map Act.
6. The Applicant shall implement, to the satisfaction of the Director of Development Services and the City Engineer, the mitigation measures identified in the certified Final Environmental Impact Report (FEIR 02-04), and any Addendum to FEIR 02-04, and associated MMRP for the Project, within the timeframe specified in the MMRP.
7. Prior to approval of any Final Map showing public or private streets, the Applicant shall obtain approval of street names for such Parcel to the satisfaction of the Director of Development Services and City Engineer.
8. The Applicant shall notify the City at least 60 days prior to consideration of the first Final Map by the City if any offsite right-of-way or any interest in real property needed to construct or install offsite improvements for such Parcel cannot be obtained

as required by the conditions of approval. After said notification, the Applicant shall comply with all requirements for such Parcel as set forth by the City Engineer and Director of Development Services.

9. Prior to approval of any Final Map or Grading Plan, the Engineer-of-Work shall submit and obtain approval by the City Engineer a waiver request for all subdivision design items for such Parcel not specifically waived on the Tentative Map, and not conforming to adopted City standards within the applicable subdivision boundary. 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.
10. Prior to approval of any Final Map for a Parcel, the Applicant shall present verification to the City Engineer in the form of a letter from Otay Water District that the subdivision will be provided adequate water service and long-term water storage facilities within the applicable subdivision boundary.
11. 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.
12. Prior to issuance of the first Building Permit or other discretionary permits for the Project, the Applicant shall develop a high-level concept master plan for artwork in public places that would identify the types of art desired and establish appropriate settings for the display of art in accordance with General Plan Policy Land Use and Transportation (LUT) 1.7, 8.2, and 8.6. This could include, by way of example, providing cultural art spaces. The Master Plan shall provide for such art to be refined and provided in conjunction with each phase of development, commensurate with the development included in such phase.
13. Prior to submittal of any Design Review application, the Applicant must obtain Master Developer approval.
14. The Applicant shall submit Covenants, Conditions, and Restrictions ("CC&Rs") for review and written approval by the City prior to the first Final Map of the Project. In addition to the requirements of STMC 34, said CC&Rs shall include, but not be limited to, the following:
  - a. Indemnification of City for private sewer spillage.
  - b. Indemnification of City-General.
  - c. List of facilities to be maintained privately.
  - d. The City's right, but not obligation, to enforce the CC&Rs.



- e. Provision that no private facilities shall be requested to become public unless all homeowners and 100 percent of the first mortgage obliges have signed a written petition.
- f. The CC&Rs shall include provisions assuring the timely and proper maintenance of all open space lots, slopes, walls, fences, private streets, private driveways, paths, recreational amenities and structures, private sewerage facilities, private drainage facilities, landscaping, and onsite improvements of neighborhoods parks.
- 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, which must be approved in writing by the City, shall be consistent with CVMC 18.44 and shall be recorded concurrently with the first Final Map.

For purpose of clarification, the CC&Rs referred to in this Condition 14 is (i) intended to mean a restrictive covenant to be imposed on each of the lots being developed with residential improvements (as such lots are described in the Development Agreement) for the benefit of the City and not on any other portion of Otay Ranch Town Center; and (ii) not intended to refer to any private CC&Rs entered into between Applicant, as the existing owner of the majority of Otay Ranch Town Center, and a residential developer of the lot(s) being developed.

Public Facilities:

- 15. The Final Map for each applicable phase shall include easements for any public utility and access easements shown on the Tentative Map, with such easements to be accepted to the City upon completion of the phase of development for which such easements are required. In the event the Development Agreement is terminated, the easement shall terminate with respect to any easements that are necessary for or were intended to be granted with any phase(s) of development that have not been completed at the time of termination.
- 16. The Applicant shall provide a public utility and access easement on any applicable Final Map over Lots A, B, C, and D (if these lots are included) for the proposed public utilities within the subdivision boundary to the satisfaction of the City Engineer.
- 17. Developer shall identify on each applicable Final Map a reciprocal Private Access and Utilities Easement over Parcels 1-10 and Parcels E-H pursuant to Section 18.20.240 of the CVMC. Said easement shall be conveyed from and to the subsequent owners of Parcels 1-10 and Parcels E-H, pursuant to Section 18.20.240 of the CVMC.

18. Prior to issuance of the first Building Permit, the Applicant shall construct a traffic signal modification and associated improvements at the intersection of Town Center Drive and Bus Rapid Transit (BRT) Guideway and restriping the fronting portion of Eastlake Parkway and Birch Road bike lanes.
19. The project will provide signal optimization and adaptive signal controller at Olympic Parkway and Town Center Drive as well as fronting right-of-way dedication on Eastlake Parkway and Birch Road (from Eastlake Parkway to Millenia Avenue) to accommodate a future Class IV Cycle Track per the City's Active Transportation Plan.

Affordable Housing:

20. Prior to approval of the first Final Map, the Applicant shall enter into an Affordability 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 as described in the Inclusionary Housing Plan. Such agreement may also identify alternative methods of compliance at the approval and sole discretion of the City and as set forth and in compliance with the Inclusionary Housing Plan and CVMC Chapter 19.91, as may be amended from time to time.

Grading/Improvements:

21. The Applicant shall apply for a Grading Permit for each development consistent with the applicable provisions of CVMC Chapter 15.04 and the Subdivision Manual, reviewed and approved by the Land Development Division. This permit shall reflect all grading required to create building pads and storm drainage systems necessary to address drainage leaving the site in addition to, but not limited to the following:
  - a. Grading Plans shall be prepared by a registered Civil Engineer and approved by the City Engineer.
  - b. Grading Plans shall be in conformance with the City's Subdivision Manual and the City's most current BMP Design Manual.
  - c. Drainage Study and Geotechnical/Soils Investigations for each phase of development are required with the first submittal of Grading Plans for such phase of development. The Drainage Study shall calculate the Pre-Development and Post-Development flows for the applicable Parcel(s) comprising such phase and show how downstream properties and storm drain facilities are impacted. Design shall incorporate detention of storm water runoff if post-development flows exceed pre-development flows; analysis shall include flows from 2-year, 10-year, and 50-year return frequency storms. Drainage study shall also demonstrate that no property damage will occur during the 100-year storm event.

- d. Drainage study shall show any offsite flows.
  - e. All onsite drainage facilities shall be private.
22. Grading plans that include freestanding walls or sound walls adjacent to 2:1 or greater and slopes that are more than 6 feet high shall include a minimum 2-foot-wide level bench for landscaping and maintenance access adjacent to the wall.
  23. Prior to issuance of any Grading Permit, the Applicant shall ensure that all related earthwork for the applicable phase of development within its subdivision boundaries shall balance to the satisfaction of the Director of Development Services and the City Engineer. In the event earthwork cannot be balanced onsite, an export material haul route shall be submitted to the Director of Development Services and the City Engineer for their approval.
  24. Prior to the issuance of any Grading or Construction Permit which impacts offsite property, the Applicant shall deliver to the City, a notarized letter of permission to construct or grade and drain for such off-site grading.
  25. Prior to issuance of any Grading or Construction 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 guardrail improvements at those locations. The Applicant shall construct and secure any required guardrail improvements in conjunction with the associated Construction Permit as determined by and to the satisfaction of the City Engineer. The guardrail 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.
  26. All private lot drainage and slopes shall comply with the current edition of the California Building Code as adopted by the City of Chula Vista, the geological recommendations of the geotechnical engineer, or as otherwise approved by the Building Official.
  27. Prior to the issuance of the first Grading or Construction Permit for any phase of development, whichever occurs first, the Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement for such phase of development to perpetually maintain and fund all post-construction permanent BMP facilities located within the portion of the Project to be located within the boundaries of the Parcel(s) involved in such phase of development to the satisfaction of the City Engineer and City Attorney.
  28. Prior to the approval of any Grading Permit, the permanent structural BMP design must be approved to the satisfaction of the Director of Development Services and the City Engineer. The structural BMPs represented in the Tentative Map may

require additional refinement, including revisions to the size, type, and location of BMP's.

29. Prior to issuance of the first Building Permit for any phase of development which includes any private facilities within public right-of-way, City property or City easement, the Applicant shall enter into an Encroachment Agreement with the City.
30. All private sewer laterals and storm drains connecting each building unit to the City-maintained public facilities shall be privately maintained.
31. Prior to issuance of any Grading Permit, any existing San Diego Association of Governments and Otay Water District easements affecting that Parcel shall be vacated or a Letter of Permission to Grade and Install Improvements shall be required.
32. The Applicant shall obtain a Construction Permit for each Parcel to construct the private driveways and associated signage and striping in the City's right-of-way within the applicable subdivision boundary of such Parcel, prior to issuance of any Building Permit.
33. The Drainage Report is considered conceptually complete and provides adequate information on the Drainage objectives to move forward into Construction Drawing documents. There may be additional requirements set at the time such development takes place and/or a Land Development Permit is applied for, depending upon final plans submitted for review and approval.
34. The Priority Development Project (PDP) Storm Water Quality Management Plan (SWQMP) is considered conceptually complete and provides adequate information on BMP's objectives to move forward into Construction Drawing documents. There may be additional requirements set at the time such development takes place and/or a Land Development is applied for, depending upon final plans submitted for review and approval.
35. Prior to issuance of any Grading Permit, a complete and accurate Notice-of-Intent ("NOI") must be filed with the State Water Resources Control Board ("SWRCB") to ensure the applicable phase of the Project is covered under the Construction General Permit (CGP). A copy of the acknowledgement from the SWRCB that a NOI has been received for such project shall be filed with the City of Chula Vista when received. Further, a copy of the completed NOI from the SWRCB showing the Permit Number for such project shall be filed with the City of Chula Vista when received.

Parks:

36. Applicant shall satisfy the requirements of the Parkland Dedication Ordinance (PDO) pursuant to CVMC 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. Overall park obligation shall be met through the payment of fees, provision of parkland, and development of parks as provided for in the approved Development Agreement. Existing recreation areas within Tentative Map Lots F and E, such as splash pad area and dog park areas, shall not be eligible for park development credit.

37. In satisfaction of a portion of the Project's parkland acquisition obligation, and in accordance with the Project's Development Agreement, the Applicant shall grant to the City on the Final Map of each Phase containing a park site (Tentative Map Lots E, F, G, H, approximately 2.54 usable acres), a public access easement for park and recreational purposes to be accepted by the City only upon the completion of improvements per City-approved plans for such park site. The park shall be completed in connection with the applicable phase of development.
38. The Park Master Plans for the Project's park sites (Lots E, F, G, H) shall comply with the provisions of the City of Chula Vista Parks and Recreation Master Plan, Landscape Manual, Shade Tree Policy, CVMC Chapter 17.10, CVMC 20.12 Landscape Water Conservation Ordinance, Park Facilities Guidelines, as may be amended from time to time, and as it affects facility and other related requirements for the Project's parks. The process to design and develop each park shall be as stated in the Project's Development Agreement.
39. The Applicant, with respect to each phase of development, shall rough grade, provide all weather access to, and install the underground utilities to the property line of any park site (Lot E, F, G, or H, as the case may be) to be improved in connection with such phase of development, to the satisfaction of the Directors of Development Services, Engineering, Community Services, Public Works, and the Fire Marshall, concurrent with the installation of the Project's streets associated with such phase of development for any portion of the Project adjacent to park sites located within such phase.

Trails:

40. For each Parcel, the Applicant shall complete construction of the portion of the trail directly adjacent to such Parcel's lot line of the trail that is located along the west and north sides of the Project site as depicted in the Project's SPA Plan, Tentative Map and Conceptual Landscape Plan prior to occupancy of each adjacent MU-R Lots 1 thru 4 building(s).

Landscaping/Walls/Fences:

41. Prior to the approval of the first Final Map for the Project, the Applicant shall submit a Landscape Master Plan for the entire Project in accordance with the Landscape Manual and Subdivision Manual. The Landscape Master Plan shall include a high-level conceptual plan that will set forth the guiding principles and materials for

community and village entry monumentation, a hardscape concept, trail plan, a wall and fence plan, a master irrigation plan, a master planting plan, a brush management plan, a utility coordination plan, a construction phasing plan and a maintenance responsibility plan. The Landscape Master Plan shall be implemented in the Landscape Improvement Plans prepared for each phase of the Project, which shall provide for the detailed application of the master plan at the time of development of each such phase.

42. Prior to issuance of a Grading Permit for each phase of development, the Applicant shall provide bonds for the Landscape and Irrigation (L&I) Improvement Plans related to planting, irrigation, construction, erosion control, parks, and trails, related to and located within the boundaries of the Parcel(s) comprising such phase. The amount of the security for any required improvements not constructed at the time of the grading permit shall be based on a construction cost estimate approved by the Director of Development Services, or Designee, as follows: 1) 110% times the approved estimate if the improvement plans have been approved by the City; 2) 150% times the approved estimate if the improvement plans are being processed by the City, and; 3) 200% times the approved estimate if improvement plans have not yet been submitted for review.
43. Prior to City 's final inspection of landscaped areas within a Parcel, the Applicant shall install permanent irrigation water meters within such Parcel's subdivision boundaries in accordance with the approved Landscape Improvement Plans to the satisfaction of the Director of Development Services or Designee.
44. The Applicant shall submit a detailed wall and fencing plan for each Parcel with the Design Review Site Plan submittal for the applicable planning area showing that all Project walls and fences within such Parcel's subdivision boundaries comply with the approved Project SPA Plan, Landscape Master Plan, and other applicable City of Chula Vista requirements to the Director of Development Services for approval. The plan shall indicate color, materials, height, and location of freestanding walls, retaining walls, and fences that are to be located within such Parcel. The plan shall also include details such as accurate dimensions, complete cross-sections showing required walls, adjacent grading, landscaping, and sidewalk improvements within such Parcel.
45. Footings and geosynthetic reinforcement grid for retaining walls shall be completely within a Parcel's property boundary and not encroach into adjacent properties, publicly owned areas and/or park sites subject to approval of the Director of Development Services or Designee.
46. Prior to the issuance of each Grading Permit for each phase of the Project, the Applicant shall prepare, submit, and secure to the satisfaction of the Director of Development Services, or Designee, all landscape and irrigation slope erosion control plans within the applicable subdivision boundary of such phase. All plans

shall be prepared in accordance with the current Chula Vista Landscape Manual and Grading Ordinance, as may be amended from time to time.

47. Prior to approval and issuance of the first Building Permit for each phase of the Project, the Applicant shall submit Landscape Improvement Plans for approval demonstrating that the installed landscape for such phase will comply with the City of Chula Vista Parks and Recreation Master Plan, as amended by the Otay Ranch Freeway Commercial SPA Plan, Landscape Design Manual, Shade Tree Policy, Street Tree Policy, Subdivision Manual, CVMC Chapter 17.10, CVMC 20.12 Landscape Water Conservation Ordinance, Park Facilities Guidelines and Landscape Manual as adopted, as may be amended from time to time.
48. Prior to the final building inspection for a Parcel, the Applicant shall have installed Landscape Improvements within the subdivision boundaries of such Parcel per approved Landscape Improvement Plans to the satisfaction of the Director of Development Services or Designee.

Open Space/Assessment:

49. Prior to issuance of the first Building Permit or other Discretionary Permits within a Parcel in the Project Site, the Applicant shall comply with applicable provisions of CVMC Section 8.24 - Solid Waste and Litter, and Section 8.25 - Recycling, related to development projects, for such Parcel 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 the portion of the Project located within such Parcel's subdivision boundaries to comply with the Recycling and Solid Waste Standards for central collection bin services.

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

50. 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 except as otherwise set forth in the Development Agreement.
51. Each Applicant shall, with respect to its respective Project Parcel, agree, to the maximum extent permitted by law, to timely and fully indemnify, protect, reimburse, defend and hold harmless City, its City Council members, Planning Commission members, officers, employees, agents and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and reasonable attorney's fees (collectively, liabilities) incurred by the City in connection with any claim, action, suit, or proceeding relating to, regarding, or arising from (a) City's approval of this Tentative Map and its related conditions of approval, (b) City's actions on any California Environmental Quality Act

document concerning this Tentative Map or the Project and/or (c) City's approval or issuance of any other permit, approval or action, whether discretionary or non-discretionary, in connection with the use and development contemplated on the Project Site, provided, further, that if Applicant elects, in its sole discretion, not to defend any such approvals, permits or actions (i.e., to instead relinquish such approvals, permits or actions), Applicant shall so notify the City in writing and City shall cooperate in taking any action necessary to terminate said approvals, permits or actions; alternatively, in the event City declines to cooperate in the termination of said approvals, permits or actions after receiving appropriate written notice from Applicant to the City, Applicant shall have no further indemnification obligation with respect to such approvals, permits or actions beginning 30 days after the date of such notice. Notwithstanding any other language in this Condition No. 51, however, the Applicant shall be fully and completely responsible for any and all indemnification, protection, reimbursement, defense and hold harmless obligations and commitments as to the City-related parties as discussed, identified, and required in this Condition No. 51 that are incurred, accrued, and/or arising up to and through the effective time of Applicant's written termination of the Project entitlements, permits, actions and approvals. The Applicant shall acknowledge its agreement to this provision by executing a copy of this Resolution where indicated below. The Applicant's compliance with this provision shall apply and continue until the time that its incurred and accrued indemnification, protection, reimbursement, defense and hold harmless obligations and commitments as to the City-related parties as discussed, identified, and required in this Condition No. 51 are fully satisfied as determined by the City in writing. For purposes of this condition, the Applicant shall be deemed to be the residential developer of the Project lots to which the indemnification obligation relates (and its successor owners) and not any prior fee simple title holders.

52. 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 Applicant as to any or all of the property.
53. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista General Plan; the CVMC; the Chula Vista Landscape Manual, the Chula Vista Subdivision Manual; the Chula Vista Design and Construction Standards; the Chula Vista Greenbelt Master Plan; the relevant General Development Plan; the relevant SPA or Precise Plan; the relevant Public Facilities Financing Plan and Air Quality Improvement Plan; the Chula Vista Development Storm Water Manual; the Chula Vista Parks and Recreation Master Plan; the Water Conservation Ordinance; and applicable Chula Vista City Council policies, all as amended from time to time, unless specifically modified by the Director of Development Services, in each case except as otherwise set forth in the Development Agreement.
54. 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 in each case to extent set forth in the Development Agreement. The Applicant shall be notified 30 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 and the Applicant shall be afforded such additional time as necessary to cure if the Applicant has commenced cure within such 30-day period and is diligently pursuing such cure.

55. The Applicant shall comply with all applicable Freeway Commercial Otay Ranch Town Center SPA conditions of approval, (SPA22-0001) as may be amended from time to time.

#### IX. 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.

#### X. 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

XI. 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.

XII. 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.

Presented by:

Approved as to form by:

\_\_\_\_\_  
*for* Laura C. Black, AICP  
Director of Development Services

\_\_\_\_\_  
*for* Mark A. Verdugo  
City Attorney

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, this \_\_\_\_ day of \_\_\_\_ 2024, by the following vote, to – wit;

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
John McCann, Mayor

ATTEST:

\_\_\_\_\_  
Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF CHULA VISTA

I, Kerry Bigelow, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Resolution No. \_\_\_\_\_ was duly passed, approved, and adopted by the City Council of the City of Chula Vista at a regular meeting of the City held on the \_\_\_\_ day of \_\_\_\_ 2024.

Executed this \_\_\_\_ day of May 2024.