

RESOLUTION NO. 2024-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA MAKING CERTAIN FINDINGS OF FACT, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFYING ENVIRONMENTAL IMPACT REPORT EIR22-0001 FOR THE NAKANO PROJECT; APPROVING AMENDMENTS TO THE CHULA VISTA GENERAL PLAN FOR THE NAKANO PROJECT (MPA21-0016); ADOPTING THE NAKANO SPECIFIC PLAN (MPA21-0017); APPROVING A TENTATIVE MAP FOR THE NAKANO PROJECT (PCS21-0001); APPROVING A PROPERTY TAX EXCHANGE AGREEMENT AND ANNEXATION AGREEMENT FOR THE NAKANO PROJECT; AND ADOPTING A RESOLUTION OF SUPPORT FOR THE PROPOSED REORGANIZATION OF THE NAKANO PROJECT SITE FROM THE CITY OF CHULA VISTA'S JURISDICTION INTO THE JURISDICTION OF THE CITY OF SAN DIEGO

WHEREAS the area of land that is the subject of this Resolution is, for the purpose of general description, the 23.77 acres located south of the Otay River, north of Dennery Road, east of Interstate 805 ("I-805"), and west of the RiverEdge Terrace residential subdivision in the City of San Diego ("Nakano Property" or "Project Site"); and

WHEREAS the Project Site is bounded on the east, south, and west by the City of San Diego and can only be accessed via Dennery Road; and

WHEREAS the Project Site does not have direct access or connections to the City of Chula Vista ("City") utilities, services and/or facilities, and, if developed, would need to be served by the City of San Diego ("San Diego"); and

WHEREAS Tri Pointe Homes ("Applicant" or "Property Owner") wishes to develop the Nakano Property for residential use with infrastructure and public services provided by San Diego, thus requiring reorganization of the Project Site from the City into San Diego; and

WHEREAS, on December 7, 2021, San Diego and the City entered into a Memorandum of Understanding ("MOU") acknowledging that both have substantial claims to be the Lead Agency in the annexation process, that the City would serve as the Lead Agency since the Nakano Specific Plan will be processed within its jurisdiction, and San Diego would serve as a Responsible Agency; and

WHEREAS, on September 16, 2021, a duly verified application was filed with the City's Development Services Department by the Applicant requesting approval of amendments to the Chula Vista General Plan (MPA21-0016) changing the land use designation of the Project Site from Open Space (OS) to Medium Residential (RM), adoption of the Nakano Specific Plan (MPA21-0017), and approval of a Tentative Map for the Nakano Project (PCS21-0001) ("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 the Project may have a significant effect on the environment and, therefore, requires the preparation of Environmental Impact Report (“EIR”) EIR22-0001; and

WHEREAS a Draft EIR for the Project was issued for public review on April 26, 2024, and was processed through the State Clearinghouse and issued clearinghouse number 2022060260; and

WHEREAS, in consideration of the comments received on the Draft EIR and the requirements of CEQA, a Final EIR was prepared for the Project; and

WHEREAS EIR22-0001 incorporates all comments and recommendations received on the Draft EIR, a list of all persons, organizations, and public agencies commenting on the Draft EIR, and the City’s responses to all “significant environmental points” raised by public and agency comments submitted during the review and consultation process, in accordance with CEQA Guidelines Section 15132; and

WHEREAS revisions to EIR22-0001 did not result in modifications to conclusions regarding the significance of impacts or the addition of significant new information that would require recirculation of the EIR pursuant to CEQA Guidelines Section 15088.5; 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 Planning Commission adopt a Resolution recommending to the City Council that it certify EIR22-0001 and approve the Nakano Project, including amendments to the Chula Vista General Plan for the Nakano Project, the Nakano Specific Plan, a Tentative Map (PCS21-0001) for the Nakano Project, a Property Tax Exchange Agreement, an Annexation Agreement, and a Resolution of Support for the reorganization of the Nakano Property from the jurisdiction of the City into the jurisdiction of San Diego; and

WHEREAS, after review and consideration of the Staff Report and related materials for the Project, the Planning Commission 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 actions, and the hearing was thereafter closed; and

WHEREAS the proceedings and all evidence introduced before the Planning Commission at the public hearing on the Project held on October 9, 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,

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 AND COMPLIANCE WITH CEQA

Pursuant to Section 15164 of the CEQA Guidelines, the City Council considered EIR22-0001 and associated documents for the Project and hereby adopts the proceedings and all evidence introduced before the Planning Commission at their public hearing on the Project and EIR22-0001 held on October 9, 2024, and the minutes and resolutions resulting therefrom are hereby incorporated into the record of this proceeding pursuant to Public Resources Code Section 21167.6 and that EIR22-0001 is prepared in accordance with the requirements of CEQA (Pub. Resources Code, §21000 *et seq.*), the CEQA Guidelines (California Code Regs. Title 14 §15000 *et seq.*), and the Environmental Review Procedures of the City.

The City Council, in the exercise of its independent review and judgment, therefore, certifies EIR22-0001 and all associated documents specific in Section III of this Resolution, copies of which are incorporated herein by this reference and on file in the office of the City Clerk.

II. EIR CONTENTS

That EIR22-0001 consists of the following:

- A. Final Environmental Impact Report EIR22-0001, SCH #2022060260.
- B. Appendices (A through U) to EIR22-0001.
- C. Technical studies and information incorporated in the responses to comments.

III. FINDINGS OF FACT, MITIGATION MONITORING AND REPORTING PROGRAM, AND STATEMENT OF OVERRIDING CONSIDERATIONS

A. Adoption of Findings of Fact

The City Council does hereby approve, accept as its own, incorporate as if set forth in full herein, and make each and every one of the findings contained in the Findings of Fact attached to this Resolution.

B. Mitigation Measures Feasible and Adopted

As more fully identified and set forth in EIR22-0001 for the Nakano Project and in the Findings of Fact and MMRP for this Project, the City Council hereby finds, pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, that the mitigation measures described in the above-referenced documents are feasible.

C. Infeasibility of Alternatives

As is also noted in the above-referenced environmental documents, one or more alternatives to the Project which were identified as potentially feasible in the EIR were found not to be feasible.

D. Adoption of the Mitigation Monitoring and Reporting Program

As required by Public Resources Code Section 21081.6, the City Council hereby adopts the Nakano Project MMRP as set forth in EIR22-0001. The City Council hereby finds that the MMRP is designed to ensure that during Project implementation, the Applicant and any other responsible parties implement the Project components and comply with the feasible mitigation measures identified in the Findings of Fact and the MMRP.

E. Statement of Overriding Considerations

Even after adoption of all feasible mitigation measures and any feasible alternatives, certain significant or potentially significant environmental effects caused by the Project, or cumulatively, will remain. Therefore, the City Council hereby issues, pursuant to CEQA Guidelines Section 15093, a Statement of Overriding Considerations in the form set forth in the attachment to this Resolution, a copy of which is filed with the City Clerk's office and numbered official City document _____, identifying the specific economic, social, and other considerations that render the unavoidable significant adverse environmental effects acceptable.

IV. GENERAL PLAN INTERNAL CONSISTENCY

The City Council hereby finds and determines that the Chula Vista General Plan, as amended, is internally consistent and shall remain internally consistent following amendments thereof by this Resolution as discussed and determined in the Nakano General Plan Amendment Justification Report for the Project (Appendix B to the Nakano Specific Plan, a copy of which is filed with the City Clerks' office and numbered official City document _____).

V. ADOPTION OF GENERAL PLAN AMENDMENTS

In light of the findings above, the Chula Vista General Plan amendments, specifically changing the land use designation of the Project Site from Open Space (OS) to Medium Residential (RM), are hereby approved and adopted in substantially the form presented to the City Council and incorporated herein and on file with the office of the City Clerk.

VI. NAKANO SPECIFIC PLAN FINDINGS

- A. That the Nakano Specific Plan is in conformance with the City's 2005 General Plan based on the following:

The proposed Nakano Specific Plan is in conformance with and implements the 2005 Chula Vista General Plan. The Nakano Specific Plan is based on the vision and objectives of the General Plan for the East Area Plan section of the General Plan. The General Plan largely focuses on the revitalization and redevelopment of the western portion of Chula Vista. Section 10.0 of the Land Use and Transportation Element of the General Plan outlines the vision for the East Area Plan which is further subdivided into six subareas. The Project Site is located in the East Main Street subarea section of the East Area Plan. Section 10.4.4 of the General Plan sets forth the objectives and policies to implement the General Plan's vision. The General Plan's vision for the East Main Street subarea focuses mostly on the car dealerships along Main Street east of I-805 and the entertainment facilities, namely the amphitheater and water park, and the desire to keep the commercial activities separate from the residential areas to avoid a conflict of land usage. Given the Nakano Property is adjacent to existing residential uses located in San Diego, the Nakano Specific Plan has been prepared pursuant to the General Plan's vision and serves as an implementing regulatory document serving as the primary source for policies, guidelines, and regulations that implement the community's vision for the Nakano Property.

Based on the above the City Council does hereby find that the proposed Nakano Specific Plan is consistent with the 2005 General Plan and that the public necessity conveniences general welfare and good planning and zoning practice support its approval and implementation.

- B. That the Nakano Specific Plan has been prepared in accordance with the CVMC and the California Government Code provision governing specific plans based on the following findings of fact:

Chula Vista Municipal Code Chapter 19.07 (Specific Plans) and the California Government Code Title 7 Division 1 Chapter 3 Article 8 Sections 65450 through 65457 establish the statutory authority for specific plans. As provided in CVMC Chapter 19.07, specific plans may be implemented through the adoption of standard zoning ordinances and the planned community zone as provided in this title or by plan

effectuation standards incorporated within the text of an individual specific plan. The method of implementing an individual specific plan shall be established and expressed by its adopting resolution or ordinance.

The Nakano Specific Plan is being adopted by this Resolution. All zoning related portions of the Nakano Specific Plan (i.e. land use matrix, permitted uses, and development regulations) are prepared to serve as regulatory provisions and supersede other regulations and ordinances of the City for the control of land use and development within the Nakano Specific Plan boundaries. The Nakano Specific Plan has been prepared as an implementing document for future land uses, public improvements and programs as provided for in the 2005 General Plan. The new zoning regulations proposed in the Nakano Specific would replace existing CVMC zoning classifications for the Project Site and introduce residential uses which would be permitted in the East Main Street subarea, consistent with the 2005 General Plan.

The City Council does hereby find that the Nakano Specific Plan has been prepared pursuant to the authority granted in CVMC Chapter 19.07 (Specific Plans) and the California Government Code Title 7 Division 1 Chapter 3 Article 8 Sections 65450 through 65457 and contains all the mandatory elements identified in Government Code Section 65451.

- C. That a financing program has been prepared which identifies the methods for funding for those facilities and services and ensures that the funds are spent on said facilities pursuant to the phasing schedule based on the following findings of fact:

The Chula Vista General Plan 2005 update focused on the revitalization and redevelopment of western Chula Vista. New growth is planned around smart growth principles such as industrial/commercial business parks that concentrate infill and redevelopment to select focus areas and corridors to protect stable single-family neighborhoods, better utilize land resources, reduce environmental impacts and make more efficient use of existing infrastructure. The Chula Vista General Plan calls for the preparation and adoption of specific plans to carry out the vision of the General Plan in an organized and orderly fashion. The Nakano Specific Plan implements the policies and objectives of the Chula Vista General Plan to direct a portion of the residential growth expected to occur in the City over the next few years to the East Main Street subarea by providing zone changes, development regulations and design guidelines to accommodate the anticipated future growth on the Project Site. The Nakano Specific Plan includes an assessment of the proposed distribution location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities that would be located within the area covered by the plan and needed to support the land uses described in the plan. In addition, the Nakano Specific Plan and the Tentative Map (PCS21-0001) for the Project Site includes a program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out the plan.

Specifically, Chapter 5 of the Nakano Specific Plan and EIR22-0001, including the MMRP, provide the plan and mechanisms to ensure public facilities and services occur commensurate with subsequent development. As described in the Nakano Specific Plan, Tentative Map (PCS21-0001) and EIR, subsequent new development would be required to provide adequate public services and facilities commensurate with their impact.

VII. TENTATIVE SUBDIVISION MAP FINDINGS AND APPROVAL

A. Tentative Subdivision Map (PCS21-0001) for the Project is approved and adopted, subject to the conditions stated herein. Pursuant to Government Code Section 66473.5 of the Subdivision Map Act, the City Council finds that the Tentative Subdivision Map (PCS21-0001), 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 adjacent to existing San Diego communities that provide 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 related to land use and circulation.

2. Economic Development

Otay Ranch Village Eight East is designed to help achieve the Chula Vista 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 any applicable park, recreation and open space identified in this Resolution are the responsibility of the Applicant.

4. Housing

The Nakano Specific Plan is consistent with the Housing Element of the City's General Plan by providing for high-quality multifamily residential opportunities in the southeastern portion of the City.

5. Environmental

EIR22-0001 addressed the goals and policies of the Environmental Element of the Chula Vista General Plan and found development of this site to be consistent with those goals and policies. The proposed Project may have a significant effect on the environment. Accordingly, the City Council, in the exercise of its independent review and judgment, adopts the Statement of Overriding Considerations, and certifies the Project EIR (EIR22-0001) and associated MMRP, which are all 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 site's configuration, orientation, and topography allow for optimal lot siting to maximize natural and passive heating and cooling. The project site's development will undergo site plan and architectural review to ensure the fullest utilization of these 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 Chula Vista General Plan provisions as specified in Section 65451 because the Nakano Specific Plan is consistent with the Chula Vista General Plan's land use designations for the East Plan Area.
 - 2. Project design or improvement is consistent with the Chula Vista General Plan land use designations, as amended, and intended circulation for the East Area Plan.
 - 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 and entitled residential communities to the east and southeast, commercial development to the south, I-805 freeway to the west, and the Otay Valley Regional Park ("OVRP") open space to the north and will have available access and infrastructure to serve the proposed Project.
 - 5. 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.

6. 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 the Project 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 Nakano Specific Plan and EIR22-0001, its MMRP and Addendums, which ensure that the Project Site is developed in a manner consistent with the standards established by the City for a 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 EIR22-0001.

VIII. TENTATIVE SUBDIVISION MAP CONDITIONS OF APPROVAL

The following shall be implemented and enforced by the City unless the proposed Project is annexed into the jurisdiction of San Diego. Additional requirements may be imposed resulting from new standards or regulations established at the time of development and/or application submittal. If the proposed Project is annexed into and developed within San Diego, the Applicant shall comply with all conditions, findings, resolutions, and ordinances adopted by San Diego as part of the San Diego Project Entitlements (as defined by the Annexation Agreement).

Unless otherwise specified, the following shall be accomplished to the satisfaction of the Director of Development Services or their designee prior to issuance of building permits:

Planning

1. Prior to issuance of (a) grading permit(s), the applicant shall obtain a Service Plan Agreement from San Diego to allow the Project to be developed in the City.
2. Prior to issuance of the first grading permit and/or prior to approval of the first final map, an out-of-service agreement shall be executed with the Local Agency Formation Commission for San Diego County ("LAFCO") for the Project's additional wastewater generation contributing to the City's existing Metro Flow share and allocation. Sewer

shall be served by the City Wastewater Department through connections to San Diego's Otay Valley Trunk Sewer.

3. Where Alternative Compliance is implemented, the Applicant shall provide a six-foot radiant heat wall consisting of two feet of CMU block and four feet of fire-rated glass or six feet of CMU block. All habitable structures shall be fire-rated with upgraded opening protection of dual-glazed/dual-tempered windowpanes including a 10-foot perpendicular return along the adjacent wall faces of the structures, per the note on Sheet 17 of the Fuel Modification Plan.
4. Prior to issuance of (a) grading permit(s), the Applicant shall obtain a right-of-way permit for grading that encroaches on property owned by the City. Immediately following the completion of grading within the encroachment area, the Applicant shall revegetate the native habitat that was removed for such activity.
5. Prior to the final inspection for the first residential building permit (exclusive of model homes), the Applicant shall construct the proposed trails and landscape improvements in accordance with the Otay Valley Regional Park Design Guidelines and provide public access to the trails.

Land Development

6. The Project and Applicant shall comply with all applicable requirements and guidelines of the CVMC, the Chula Vista Subdivision Manual, the Chula Vista Design and Construction Standards, the Development Storm Water Manual for Development and Redevelopment Projects, the Chula Vista Grading Ordinance (No. 1797), and the Subdivision Map Act.
7. Prior to issuance of any grading permit, the Applicant shall obtain resource agency permits from applicable agencies, which may include the U.S. Army Corps of Engineers (CWA Section 404 Permit), the California Department of Fish and Wildlife (CDFW Section 1600 Streambed Alteration Agreement), and a Regional Water Quality Control Board (CWA Section 401 Certification).
8. Based on the submitted building plans, the Applicant shall pay all applicable fees per the Chula Vista Master Fee Schedule. Development Impact Fees shall be assessed by and paid to the agency in which the Project is developed.
9. Prior to approval of a grading plan and issuance of a grading permit that includes offsite grading, the Applicant shall provide the City with Letters of Permission from affected property owners.
10. The on-site sewer and storm drain systems shall be private. All sewer laterals and storm drains shall be privately maintained from each building unit to the City-maintained public facilities.

11. Separate permits for other public utilities (gas, electric, water, cable, telephone) shall be required as necessary.
12. All proposed sidewalks, walkways, pedestrian ramps, and accessible parking shall be designed to meet the City Design Standards, Americans with Disabilities Act standards, and California Building Code Title 24 standards as applicable.
13. All driveways shall conform to the City's sight distance requirements in accordance with CVMC 12.12.120 and Chula Vista Standard Drawing RWY-05 (Sight Distance Requirements). Neither landscaping, street furniture, nor signs shall obstruct the visibility of drivers at street intersections or driveways.
14. Prior to issuance of a construction permit, the Applicant shall obtain an encroachment permit for any private facilities, temporary or permanent, within the public right-of-way or a City easement.
15. Prior to issuance of any building permit within the Project, the Applicant shall provide the City with proof of pad certification.
16. Areas affected by the proposed remedial grading shall be restored to pre-project conditions/elevations and confirmed with an as-built survey after the grading has occurred.
17. Prior to approval of the first final map or issuance of the first building permit, whichever occurs first, the Applicant shall provide will-serve letters from San Diego addressing water and sewer service.
18. Prior to approval of the first final map, the Applicant shall provide a letter from San Diego allowing vehicular access to Dennery Road and accepting the increase in traffic volumes generated from the Project.
19. Private Street "A" shall be designed to meet public street standards based on the average daily trips (ADT) generated, except that a minimum centerline radius of 170 feet shall be utilized.
20. The Applicant shall provide a 40-foot-wide access easement to the City over portions of Private Street "A" from Dennery Road to the Project boundary. A termination clause shall be included in the easement deed to self-extinguish if/when the Project is annexed into San Diego.
21. Prior to issuance of any grading permit, the Applicant shall submit a Letter of Permission for any proposed grading within the SDG&E easement.
22. Prior to grading permit issuance, the Applicant shall obtain approval from San Diego for the relocation of its existing sewer mains and facilities affected by the Project.

23. Prior to approval of a final map, the existing San Diego sewer easement shall be vacated.
24. The Applicant shall obtain grading and right-of-way permits from San Diego for any offsite work associated with Private Street "A" and Dennery Road.
25. Prior to approval of a final map, the Applicant shall provide offsite private easements for access, utility, and storm water maintenance.
26. Prior to approval of a final map, all streets within the Project shall be labeled as private streets.
27. The Project shall include a top-of-slope vehicle barrier for Access Road and Private Street "A" where large downslope conditions are proposed.
28. Prior to issuance of grading, construction, and/or building permits, the Applicant shall document compliance with the requirements pertaining to storm water best management practices ("BMP") on applicable plans. The Applicant shall develop and implement post-construction BMPs in accordance with the most recent regulations at the time of grading, construction and building permit issuance.
29. The Project's Storm Water Quality Management Plan is considered conceptually complete and provides adequate information on the project BMP's objectives to move forward with construction drawings. Additional requirements may be imposed at the time of development and/or when a Land Development permit application is submitted, depending upon the final plans submitted for review and approval. Prior to approval of the grading plans, the Applicant shall submit a final Storm Water Quality Management Plan based on the latest BMP Design Manual to the City for review and approval.
30. The Project's Drainage Report is considered conceptually complete and provides adequate information on the project's drainage objectives to move forward with construction drawings. Additional requirements may be imposed at the time of development and/or when a Land Development permit application is submitted, depending upon the final plans submitted for review and approval. Prior to approval of the grading plans, the Applicant shall submit a final Drainage Report based on the latest requirements set forth in the City's Subdivision Manual for review and approval.
31. Prior to issuance of the first of the grading, construction, or building permit(s), the Applicant shall enter into a Storm Water Management Facilities Maintenance Agreement with the City for the perpetual maintenance and funding of all post-construction permanent BMP facilities within the Project to the satisfaction of the City Engineer.
32. The Applicant shall submit a detailed operation and maintenance (O&M) plan for all permanent BMPs as required by the City to preserve the intended pollution control

- and/or flow control performance of the BMP(s). Upon completion of the BMPs/project, the Applicant shall update/finalize the plan to reflect constructed structural BMPs with as-built plans and baseline photos.
33. The Applicant shall provide a letter of approval from San Diego for the Project's proposed direct connection to the existing 27-inch San Diego Otay Valley Trunk Sewer and for the relocation of a portion of said pipe.
 34. The Applicant shall meet San Diego's requirements regarding the payment of fees and construction costs related to the connection to San Diego's sewer main.
 35. If it is determined that a sewage metering station is needed for the Project, the Applicant shall pay all direct and incidental costs for the installation and maintenance of the sewage metering station at the proposed connection to San Diego's sewer main.
 36. The Applicant shall agree not to protest formation of or inclusion in a maintenance district or zone for the maintenance of landscape medians, scenic corridors along streets, and/or public parks within or adjacent to the Project.
 37. As a safety measure, prior to issuance of any building permit, the Applicant shall construct speed bumps throughout the Project to the satisfaction of the City Engineer.
 38. With the approval of any grading and public or private 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, or personal geodatabase (ArcGIS version 9.0 or above) using the city's digital submittal file upload website: <http://www.chulavistaca.gov/goto/GIS>. (The data upload site only accepts zip-formatted files.)
 39. If it is determined that the Cities of Chula Vista and San Diego must enter into an agreement for the provision of sewer service to the Project, the agreement shall be executed prior to approval of the improvement plans for the Project.

Housing

41. Prior to issuance of the first building permit, the Applicant shall execute an affordable housing agreement for the Project compliant with the City's inclusionary requirements at the time of execution of the regulatory agreement.

Transportation

42. The Applicant shall enter into an agreement with San Diego to complete the following improvements and provide the fair share contribution(s) specified in the Project's Local Mobility Analysis (LMA) and in accordance with San Diego requirements.

Demonstration of compliance with these conditions shall be provided to the City prior to issuance of any building permit(s) unless indicated otherwise.

- a. The Applicant shall permit and bond the removal and replacement of the existing driveway on Dennery Road with full-height curb, gutter, and non-contiguous sidewalk and construct a new 25-foot-wide driveway as shown on Exhibit 'A' per current San Diego standards, satisfactory to San Diego's Engineer. All improvements shall be completed and operational prior to final inspection for the first building permit.
- b. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond with San Diego completion of the improvements specified in the Local Mobility Analysis and shall provide a fair share contribution of 2.5 percent to San Diego towards the bridge widening as part of the Palm Ave-Interstate 805 Interchange / S00869 Project within San Diego, satisfactory to San Diego's City Engineer.
- c. At the intersection of Palm Avenue/Dennery Road, the Applicant shall permit and bond the following per San Diego standards, satisfactory to San Diego's City Engineer. All improvements shall be completed and operational prior to final inspection for the first building permit:
 - 1) Installation of pedestrian countdown signal heads and installation of backplates with retroreflective borders on all approaches via a traffic signal modification plan;
 - 2) Extension of the exclusive eastbound dual left turn lanes with 280 feet of storage per lane by an additional 85 feet of storage per lane with appropriate taper to provide a total storage length of 365 feet per lane via improvement plans and signing and striping plans;
 - 3) Extension of the exclusive southbound right turn lane with 95 feet of storage by an additional 50 feet of storage with appropriate taper to provide a total storage length of 145 feet via improvement plans and signing and striping plans; and
 - 4) Installation of audible countdown pedestrian heads for each pedestrian phase and upgrading the traffic controller to a 2070 controller including software update and communications equipment.
- d. At the intersection of Dennery Road/Red Fin Lane, the Applicant shall permit and bond the following per San Diego standards, satisfactory to San Diego's City Engineer. All improvements shall be completed and operational prior to final inspection for the first building permit:

- 1) Extension of the exclusive eastbound left turn lane with 190 feet of storage by an additional 50 feet to provide a total storage length of 240 feet via improvement plans and signing and striping plans; and
 - 2) Upgrade of the existing bicycle loop detectors along Dennery Road and install Type E Modified front loops on all approaches via a traffic signal modification plan.
- e. The Applicant shall record an access easement in favor of all affected parcels within the Project Site, satisfactory to the City's City Engineer. All improvements shall be completed and operational prior to final inspection for the first building permit.
 - f. The Applicant shall pay the Active Transportation In Lieu fee to San Diego.
 - g. The Applicant shall construct a secondary emergency-only access, as shown on Tentative Map (PCS21-0001), to the satisfaction of the City's City Engineer and Fire Marshal. All improvements shall be completed and operational prior to final inspection for the first building permit.

Fire

43. The Project shall comply with the CVMC, California Fire Code, National Fire Protection Association Standards, and Chula Vista Fire Department's Fire Safety Engineering Standard Details and Requirements in effect at the time of permit application and plan submittal.
44. The Project shall comply with the approved Fire Protection Plan and all provisions set forth within the Fire Protection Plan.

Landscape Architecture

45. No wall footings nor utilities shall be placed within the parkway of Private Street "A" in locations that would inhibit the ability to plant street trees at approximately equal spacing as depicted in the approved Landscape Concept Plan. This shall be documented on the Project's grading and public improvement plans.
46. Prior to the second submittal of the building permit set, the Applicant shall submit a complete set of landscape improvement plans for review and approval by the Director of Development Services or their designee. Said plans shall conform to the following City documents including but not limited to:
 - a. Landscape Water Conservation Ordinance (LWCO), CVMC 20.12
 - b. City of Chula Vista Landscape Manual

c. City of Chula Vista Shade Tree Policy (576-19)

47. Prior to the final building inspection, in accordance with CVMC 17.10, as amended by City Council Ordinance Nos. 2010-3163 and 2014-3324, the Property Owner shall pay the generated Park Acquisition and Development (PAD) fees for new dwelling units, in accordance with the City's current Master Fee Schedule.
48. Prior to the final building inspection, the Property Owner shall have installed landscape improvements and have had said improvements inspected by City staff, per the approved landscape improvement plans, to the satisfaction of the Director of Development Services or their designee.

Environmental Services

49. The Project shall comply with the City Recycling and Solid Waste Planning Manual (<https://www.chulavistaca.gov/home/showdocument?id=5211>) as well as CVMC 19.58.340, CVMC 8.24, and CVMC 8.25 for food waste/organics diversion, recycling, and trash requirements.

Facilities Financing

50. If LAFCO does not approve annexation into San Diego, the Planned Facilities Financing Program (PFFP) shall be revised to determine whether there are impacts to City facilities or public services.

IX. ANNEXATION AGREEMENT

The City Council hereby approves the Annexation Agreement among the City, San Diego, and the Applicant for the Nakano Property (a copy of which is on file in the City Clerk's office), finding it consistent with the California Government Code, adopted City policies, and the Chula Vista General Plan.

X. TAX SHARING AGREEMENT

The City Council hereby approves the Tax Sharing Agreement among the City and San Diego for the Nakano Property (a copy of which is on file in the City Clerk's office), finding it consistent with the California Government Code, adopted City policies, and the Chula Vista General Plan.

XI. REORGANIZATION

The City Council hereby orders that the Nakano Specific Plan, EIR22-0001, MMRP, Findings of Fact, Statement of Overriding Considerations, Annexation Agreement, Tax Sharing Agreement, and all other associated and appropriate documents, be submitted to LAFCO for official adoption. Pursuant to the provisions of the Annexation Agreement, the City Council also irrevocably consents to the reorganization and will cooperate in every

reasonable way with the Applicant and San Diego's application to LAFCO related to the annexation of the Project Site into San Diego.

XII. CITY IMPLEMENTATION, ENFORCEMENT OF PROJECT CONDITIONS OF APPROVAL AND CVMC, AND DEFENSE OF PROJECT APPROVALS.

The following ongoing conditions shall apply to the Project Site for as long as it relies upon this approval:

1. Approval of the Project shall not waive compliance with any provisions of the CVMC nor any other applicable City Ordinances in effect at the time of permit issuance.
2. The Property Owner and Applicant shall and do agree to fully and completely reimburse, indemnify, protect, defend (with counsel approved by the City in writing) and hold harmless the City, its City Council members, Planning Commission members, officers, employees, and representatives, at its sole cost and with separate and independent counsel identified by the City, from and against any and all liabilities, judgment, losses, damages, demands, claims, and costs, including court costs and attorney's fees (collectively, liabilities), (including any costs and expenses to prepare the administrative record for any challenge to the Project Entitlements and/or compiling a response to a California Public Records Act request(s) to provide the record of proceedings materials for the Project Entitlements), incurred by the City arising, directly or indirectly, from (a) the City's approval of the Project, (b) the City's actions on any environmental document concerning this Project, and (c) the City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use(s) contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Resolution 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.
3. All 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.
4. The Applicant shall comply with all requirements and guidelines of the City 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, and relevant Precise Plan(s), the any relevant Public Facilities Financing Plan(s) 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, except as otherwise provided by the Annexation Agreement, as adopted, applicable to the Project Site.

5. If any of the terms, covenants, or conditions contained herein shall fail to occur timely, 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, in its sole discretion and notwithstanding any other provisions or holding of the law, to immediately stop or cease the inspection or issuance of any form or type of permits or certificates of occupancy relating to the Project; to revoke or modify all approvals herein granted, including issuance of building permits; to deny or further condition the subsequent approvals that are derived from the approvals herein granted; to institute and prosecute litigation to compel their compliance with said conditions; and/or to 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.
6. The Applicant shall comply with all applicable provisions of the Chula Vista General Plan and adopted Nakano Specific Plan, as may be amended from time to time, except as otherwise provided by the Annexation Agreement, as adopted, applicable to the Project Site.

XIII. 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). Failure to timely follow 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 that have been given notice similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

XIV. 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 Clerk. 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 subsequent permit applications be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Applicant

Date

XV. CONFORMANCE WITH CITY SUBDIVISION MANUAL

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

XVI. 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 shall be deemed to be automatically revoked and of no further force and effect ab initio.

Presented by

Approved as to form by

Laura C. Black, AICP
Director of Development Services

Marco 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 _____ 2024.

Attachments:

1. Statement of Overriding Considerations

Exhibits:

- A. Tentative Map PCS21-0001