

**RESOLUTION NO. 2012-59**

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF NEWPORT BEACH APPROVING GENERAL  
PLAN AMENDMENT NO. GP2008-008 TO AMEND  
THE CIRCULATION ELEMENT TO DELETE THE  
PLANNED SEGMENT OF 15TH STREET WEST OF  
BLUFF ROAD AND ADOPTING A STATEMENT OF  
OVERRIDING CONSIDERATIONS**

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Newport Banning Ranch, LLC, with respect to a 401-gross-acre property generally located north of West Coast Highway, south of 19th Street, and east of the Santa Ana River, requesting approval of a planned community for development of 1,375 residential dwelling units, a 75-room resort inn and ancillary resort uses, 75,000 square feet of commercial uses, approximately 51.4 gross acres of parklands, and the preservation of approximately gross 252.3 gross acres of permanent open space ("Project").
2. The subject property is located within the City of Newport Beach Planned Community (PC-25) Zoning District and the County of Orange Zoning Suburban Multi-family Residential (R-4), Local Business Commercial (C-1), Light Industrial (M-1) with Oil Production (O), Sign Restriction (SR), and Floodplain Zone (FP-2) Overlays.
3. The City of Newport Beach General Plan Land Use Element category is Open Space/Residential Village (OS/RV).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan (CLUP) designates this property as a Deferred Certification Area; therefore, the policies of the CLUP do not govern the development of the Project site.
5. Approximately 40 acres of the Project is located in the City of Newport Beach, and approximately 361 acres of the Project is located under the jurisdiction of the County of Orange. The City intends to annex that portion of the subject property currently within the County of Orange.
6. The Project includes a General Plan Amendment to the Circulation Element of the General Plan to delete the planned segment of 15th Street west of Bluff Road to West Coast Highway.
7. The General Plan Circulation Element describes the long-term mobility system of the City of Newport Beach.

8. Circulation Element Policy CE 2.1.2 calls for the construction of the circulation system described on the map entitled Newport Beach Circulation Element-Master Plan of Streets and Highways.
9. Circulation Element Policy CE 3.1.3 requires the Master Plan of Streets and Highways to be consistent with the Orange County Master Plan of Arterial Highways (MPAH).
10. The Orange County MPAH is an adopted, countywide planning tool that defines the Orange County freeway, tollroad, and arterial circulation system that is forecasted to be required to serve the mobility needs of Orange County at buildout.
11. The Circulation Element Master Plan of Streets and Highways depicts the westerly extension of 15<sup>th</sup> Street to West Coast Highway through the Project site. The Orange County MPAH also identifies a second roadway connection from 17<sup>th</sup> Street as well as a westerly extension of 15<sup>th</sup> Street to the 17<sup>th</sup> Street extension.
12. The Project proposes amendments to the Master Plan of Streets and Highways and the Orange County MPAH to provide consistency between the plans.
13. A request to amend the Orange County MPAH has been initiated by the City and a cooperative study with OCTA, the City of Costa Mesa, and the City of Huntington Beach to analyze the transportation/circulation impacts of the proposed MPAH changes is in progress pursuant to the MPAH Amendment process. The MPAH Amendment process requires that the proposed deletion the planned segment of 15th Street west of Bluff Road to West Coast Highway be agreed upon by the Cities of Newport Beach, Costa Mesa, and Huntington Beach before the Orange County Transportation Authority (OCTA) Board of Directors takes action upon the proposed amendment.
14. The proposed General Plan Amendment cannot take effect until the approval of the MPAH amendment by the OCTA.
15. In accordance with Government Code Section 65352.3, prior to the amendment of the City's General Plan, the City consulted with those California Native American tribes that are on the contact list maintained by and provided to the City by the Native American Heritage Commission.
16. The Planning Commission held study sessions on the Project on January 19, 2012, February 9, 2012, February 23, 2012, and March 8, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California.
17. In accordance with Government Code Section 65353, the Planning Commission held public hearings on the Project, including the proposed General Plan Amendment, on March 22, 2012, April 19, 2012, and June 21, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of these meetings was given in accordance with the Newport Beach Municipal Code and California Government Code Sections 65090 and 65091.. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at

this meeting, and in accordance with Government Code Section 65354, the Planning Commission made a written recommendation on the amendment of the General Plan to the City Council.

18. The City Council held a public hearing on the Project on July 23, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of these meetings was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

## SECTION 2. FINDINGS.

1. Amendments to the General Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
2. The Newport Banning Ranch Final Environmental Impact Report (SCH No. 2009031061) was prepared for the Project in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. By Resolution No. 2012-xxxx, the City Council, having final approval authority over the Project, adopted and certified as complete and adequate the Newport Banning Ranch Final Environmental Impact Report (SCH No. 2009031061), and adopted "Findings and Facts in Support of Findings for the Newport Banning Ranch Project Final Environmental Impact Report, Newport Beach, California" ("CEQA Findings") and a Statement of Overriding Considerations, which CEQA Findings and the Statement of Overriding Considerations provided in Exhibit A are hereby adopted and incorporated herein by reference.
3. The traffic analysis contained in Newport Banning Ranch Final Environmental Impact Report (SCH No. 2009031061) concluded that the extension of 15th Street west of Bluff Road to West Coast Highway is not needed to accommodate the projected traffic accessing West Coast Highway. Deleting this roadway segment from the Master Plan of Streets and Highways would not result in any inconsistencies between the Circulation Element and other elements of General Plan.
4. The amendment is in the public interest pursuant to Section 65358 of the California Government Code. The deletion of the planned extension of 15th Street west of Bluff Road to West Coast Highway would avoid alteration of bluffs and disturbance of Southern Coastal Bluff Scrub vegetation adjacent to West Coast Highway.

## SECTION 3. DECISION.

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH DOES HEREBY RESOLVE AS FOLLOWS:

1. General Plan Amendment GP2008-008 is hereby approved to revise General Plan Circulation Element Figure CE1 (Master Plan of Streets and Highways) to delete the

depiction of the extension of 15th Street west of Bluff Road to West Coast Highway and to revise Figure CE3 (Recommended Intersection Improvements) to delete the depiction of the 15<sup>th</sup> Street/West Coast Highway intersection.

2. General Plan Amendment GP2008-008 shall not become effective until after the Orange County Transportation Authority Board of Directors approves the associated amendment to the Master Plan of Arterial Highways and subsequent action is taken to adopt the amendment by the City Council.

**PASSED, APPROVED, AND ADOPTED this 23rd day of July 2012.**


  
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MAYOR

ATTEST:

  
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CITY CLERK



APPROVED AS TO FORM,  
OFFICE OF THE CITY ATTORNEY

  
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Aaron Harp, City Attorney  
for the City of Newport Beach



**EXHIBIT A****STATEMENT OF OVERRIDING CONSIDERATIONS  
FOR THE NEWPORT BANNING RANCH PROJECT  
FINAL ENVIRONMENTAL IMPACT REPORT,  
NEWPORT BEACH, CALIFORNIA  
STATE CLEARINGHOUSE NO. 2009031061****STATEMENT OF OVERRIDING CONSIDERATIONS****Introduction**

The City is the Lead Agency under CEQA for preparation, review, and certification of the Final EIR for the Newport Banning Ranch Project. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed Project. In making this determination the City is guided by State CEQA Guidelines Section 15093 which provides as follows:

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal (sic) project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.



Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed Project against the following unavoidable adverse impacts associated with the proposed Project and has adopted all feasible mitigation measures with respect to these impacts. The City also has examined alternatives to the proposed Project, none of which both meet the Project objectives, and is environmentally preferable to the proposed Project or feasible for the reasons discussed in the Findings and Facts in Support of Findings.

The Newport City of Beach City Council, the Lead Agency for this Project, and having reviewed the Final EIR for the Newport Banning Ranch Project, and reviewed all written materials within the City's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the Project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the Project.

### **Significant Unavoidable Adverse Environmental Impacts**

Although most potential Project impacts have been substantially avoided or mitigated, as described in the Findings and Facts in Support of Findings, there remain some Project impacts for which complete mitigation is not feasible. For some impacts, mitigation measures were identified and adopted by the Lead Agency, however, even with implementation of the measures, the City finds that the impact cannot be reduced to a level of less than significant. The impacts and alternatives are described below and were also addressed in the Findings.

The EIR identified the following unavoidable adverse impacts of the proposed Project:

**Land Use.** The City of Newport Beach Zoning Code (October 2010) defines compatibility as "The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict. Elements affecting compatibility include: intensity of occupancy, pedestrian or vehicular traffic generated, volume of goods handled, and environmental effects (e.g., air pollution, glare, hazardous materials, noise, vibration, etc.).". Therefore, land use incompatibility can occur where differences between nearby uses result in significant noise levels and significant traffic levels, among other factors, such that project-related significant unavoidable direct and indirect impacts impede use of the existing land uses as they were intended. The proposed Project would result in a land use incompatibility with respect to long-term noise and night illumination on those Newport Crest residences immediately contiguous to the Project site. The City of Newport Beach General Plan Final EIR found that the introduction of new sources of lighting associated with development of the site would be considered significant and unavoidable. In certifying the General Plan Final EIR and approving the General Plan project, the City Council approved a Statement of Overriding Considerations which notes that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the General Plan project. In addition, there would be a potential long-range noise impacts for residents on 17<sup>th</sup> Street west of Monrovia Avenue. For noise, though mitigation is proposed, noise impacts would remain significant if the residents of Newport Crest elect not to implement the mitigation measures to reduce the increased interior noise levels and if the City of Costa Mesa does not implement the recommended measure of resurfacing the street with rubberized asphalt.

**Aesthetics and Visual Resources.** The proposed Project would include "dark sky" lighting regulations set forth in the Newport Banning Ranch Development Planned Community (NBR-PC) zoning regulations that would apply to businesses (e.g., resort inn and neighborhood

commercial uses) and Homeowners Association-owned and operated land uses within 100 feet of the Open Space Preserve. However, the Project would introduce nighttime lighting into a currently unlit area. The Project would result in night lighting impacts that are considered significant and unavoidable. The City of Newport Beach General Plan Final EIR found that the introduction of new sources of lighting associated with development of the site would be considered significant and unavoidable. In certifying the General Plan Final EIR and approving the General Plan project, the City Council approved a Statement of Overriding Consideration which noted that there were specific economic, social, and other public benefits which outweighed the significant unavoidable impacts associated with the General Plan project.

**Transportation and Circulation.** The Project would have impacts on select intersections in the City of Costa Mesa. Implementation of Mitigation Measure (MM) 4.9-2 would mitigate the Project's impact to a level considered less than significant. However, the City of Newport Beach cannot impose mitigation on another jurisdiction or agency. Therefore, if the Applicant is unable to reach an agreement with the City of Costa Mesa and the California Department of Transportation (Caltrans) that would ensure that Project impacts occurring in Costa Mesa and State highways would be mitigated concurrent with or preceding the impact, for purposes of this EIR, the impacts to be mitigated by the improvements would remain significant and unavoidable. The following impacts were identified with the various traffic scenarios evaluated:

- **Existing Plus Project** – Intersections identified as deficient are: (1) Newport Boulevard at Harbor Boulevard; (2) Newport Boulevard at 18<sup>th</sup> Street/Rochester Street; and (3) Superior Ave at 17<sup>th</sup> Street. (This scenario assumes all development occurs at once, which is not an accurate reflection of the timing of development for the proposed Project.)
- **Year 2016 With Project Transportation Phasing Ordinance (TPO)** – Intersections identified as deficient are: (1) Monrovia Avenue at 19<sup>th</sup> Street; (2) Newport Boulevard at 19<sup>th</sup> Street; (3) Newport Boulevard at Harbor Boulevard; (4) Newport Boulevard at 18<sup>th</sup> Street/Rochester Street; (5) Pomona Avenue at 17<sup>th</sup> Street; (6) Newport Boulevard at 17<sup>th</sup> Street; (7) Superior Avenue at 17<sup>th</sup> Street; and (8) Newport Boulevard at West Coast Highway.
- **Year 2016 With Phase 1 Project TPO** – Intersections identified as deficient are: (1) Newport Boulevard at Harbor Boulevard; (2) Newport Boulevard at 18<sup>th</sup> Street/Rochester Street; and (3) Newport Boulevard at West Coast Highway.
- **Year 2016 Cumulative With Project** – Intersections identified as deficient are: (1) Monrovia Avenue at 19<sup>th</sup> Street; (2) Newport Boulevard at 19<sup>th</sup> Street; (3) Newport Boulevard at Harbor Boulevard; (4) Newport Boulevard at 18<sup>th</sup> Street/Rochester Street; (5) Pomona Avenue at 17<sup>th</sup> Street; (6) Newport Boulevard at 17<sup>th</sup> Street<sup>1</sup>; (7) Superior Avenue at 17<sup>th</sup> Street; and (8) Newport Boulevard and West Coast Highway.
- **Year 2016 Cumulative With Phase 1 Project** – Intersections identified as deficient are: (1) Newport Boulevard at Harbor Boulevard and (2) Newport Boulevard at 18<sup>th</sup> Street/Rochester Street.

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<sup>1</sup> The Newport Boulevard at 17<sup>th</sup> Street intersection has a Project-related impact using the Highway Capacity Manual (Caltrans methodology), as well as an impact using the Intersection Capacity Utilization methodology.

- **General Plan Buildout with Project** – Intersections identified as deficient are: (1) Newport Boulevard at Harbor Boulevard and (2) Newport Boulevard at 18<sup>th</sup> Street/Rochester Street.

**Air Quality.** During periods of grading, localized large and fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) concentrations may exceed the South Coast Management District's (SCAQMD's) CEQA significance thresholds at the property lines but would not likely exceed ambient air quality standards. Localized concentrations of carbon monoxide (CO) and nitrogen dioxide (NO<sub>2</sub>) due to construction activities would not exceed the applicable CEQA thresholds. Regional (mass) emissions of criteria pollutants during construction activities would not exceed the applicable thresholds.

Long-term operational emissions of criteria pollutants would not exceed the SCAQMD mass emissions thresholds from initial occupancy through 2020. However, as Project development continues beyond 2020, emissions of volatile organic compounds (VOCs), CO, and PM<sub>10</sub> would exceed the significance thresholds, principally due to vehicle operations. Feasible mitigation measures would be implemented to reduce operational emissions, although the effects of such mitigation are not quantifiable. Localized concentrations of CO at congested intersections would not exceed ambient air quality standards or CEQA significance thresholds.

The Project would have a significant cumulative air quality impact because its contribution to regional pollutant concentrations would be cumulatively considerable.

**Greenhouse Gas Emissions.** The Project would emit quantities of GHGs that would exceed the City's 6,000 metric tons of carbon dioxide equivalent per year (MTCO<sub>2</sub>e/yr) significance threshold. The Project would make a cumulatively considerable contribution to the global GHG inventory affecting Global Climate Change.

**Noise.** For the *Existing Plus Project*, *2016 with Project*, and *General Plan Buildout* scenarios, the increased traffic volumes on 17<sup>th</sup> Street west of Monrovia Avenue in Costa Mesa, would expose sensitive receptors to noise levels that would also exceed significance thresholds in the City of Costa Mesa. MM 4.12-5 requires the Applicant to provide funds to the City of Costa Mesa to resurfacing the street with rubberized asphalt; however, the City of Newport Beach has no ability to assure that the mitigation would be implemented. Therefore, the forecasted noise impact to residents of 17<sup>th</sup> Street west of Monrovia is considered significant and unavoidable.

For portions of the Newport Crest condominium development, there would be a significant increase in the ambient noise level due to the projected traffic volumes in the buildout condition. MM 4.12-6 would reduce impacts to levels within the "Clearly Compatible" or "Normally Compatible" classifications. However, the long-term noise increases at some Newport Crest residences from vehicular traffic noise from Bluff Road due to Project and cumulative traffic levels would remain above the General Plan's 5 A-weighted decibels (dBA) significance criterion. MM 4.12-7 would provide interior noise attenuation, but because the City of Newport Beach does not have the authority to mandate the implementation of mitigation on private property that is not on the Project site, the impact would be significant and unavoidable.

Use of construction equipment would result in a substantial temporary increase in ambient noise levels to nearby noise-sensitive receptors in the vicinity of the Project. Due to the low existing ambient noise levels, the proximity of the noise-sensitive receptors, and duration of construction activities, the temporary noise increases would be significant and unavoidable.



In addition, the EIR identified six alternatives to the Project and analyzed whether these alternatives could avoid or substantially lessen the unavoidable environmental impacts of the proposed Project. While some of the alternatives could lessen or avoid some of the unavoidable impacts of the proposed Project, some of the alternatives also resulted in different and in some cases, increased environmental impacts, consequently, for the reasons set forth in Section 6 of these Findings, none of the alternatives were determined to be feasible:

- Alternative A: No Action/No Development Alternative (Continuation of Existing Land Uses).
- Alternative B: Newport Beach General Plan/Open Space Designation.
- Alternative C: Proposed Project with Bluff Road Extending to 17<sup>th</sup> Street.
- Alternative D: Reduced Development and Development Area.
- Alternative E: Reduced Development Area.
- Alternative F: Increased Open Space/Reduced Development Area.

The City, after balancing the specific economic, legal, social, technological, and other benefits including region-wide or statewide environmental benefits, of the proposed Project, has determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable, adverse environmental impacts of the proposed Project, each of which standing alone is sufficient to support approval of the Project, in accordance with CEQA Section 21081(b) and State CEQA Guideline Section 15093.

**1. Long-term protection of over 50 percent of the Project site as natural open space and habitat consistent with the City's General Plan**

The City's General Plan Policy LU 3.4 prioritizes the acquisition of Banning Ranch as an open space amenity for the community and region, to enhance wetlands and other habitats and provide parkland amenities to serve nearby neighborhoods. In order to implement this policy, LU 6.3.2 recognizes the need to obtain sufficient funds through private fundraising, State bonds, environmental mitigation fees, or other financing mechanisms, none of which have been identified to date. As the General Plan acknowledges, "due to the significant cost of purchasing the site and habitat restoration, a large amount of revenue would need to be generated to help fund preservation of the majority of the property as open space". (Housing Element on page 5-43)

Consistent with General Plan Policy LU 3.4, the Project will implement a comprehensive Habitat Restoration Plan that encompasses more than 250 acres of the Project site and would provide for the restoration of wetlands and other habitat areas, and the preservation and long-term maintenance of existing open space, sensitive habitats and additional restored and created habitats at no cost to the public.

**2. New public and coastal access will be provided**

The Project would make available to the public a site that has been privately-owned and closed to the public since the 1940s. It would provide new public and coastal access through construction of a road connection to West Coast Highway and the beach, as

well as access to open space and trails. The Project would also provide approximately 475 new public parking spaces in the coastal zone.

3. **Dedication and improvement of land for public park, recreational, and open space purposes in excess of the requirements of California law and City ordinances**

In addition to the restoration and long-term preservation of natural open space and habitat areas described above in #1, above, the City's General Plan also contemplates the provision of parkland amenities to serve nearby neighborhoods and City residents in general. Under the General Plan's Primary Use as open space, in addition to the costs of property acquisition, the City and its residents would be responsible for funding the cost of park improvements. The Project provides approximately 26.8 acres of public community parkland and improvements. As described below, the Project's parkland dedication and improvements exceed the parkland dedication requirements under State law and provide significant open space and recreational benefits to the City and its residents.

Government Code Section 66477 (commonly known as the "Quimby Act") allows a city to require the dedication of land or require the payment of fees for park and recreational purposes as a condition to the approval of a tentative map. The Quimby Act establishes limits on the amount of land that is required to be dedicated. Based on the number of dwelling units proposed, the Project would be required to dedicate approximately 15 acres of parkland only. The Project would both dedicate land and provide improvements to the following parks and recreational trails in excess of its Quimby Act requirements. The public parks, recreational and open space provided by the Project are as follows:

- The improvement of the North Community Park and the Central Community Park, totaling 26.8 gross acres (more than 18 net acres);
- The improvement of Bluff Park and the Interpretive Parks in accordance with the Newport Banning Ranch Master Development Plan, totaling 24.6 gross acres; and
- The improvement of a more than 7 mile trail system through open space areas in accordance with the Newport Banning Ranch Master Development Plan, totaling approximately seven miles of trails throughout the Project site.

4. **Comprehensive oilfield abandonment which expedites habitat restoration and protection**

The Newport Banning Ranch property is an active, operating oilfield. In addition, as an active, operating oilfield, and as detailed in the City's General Plan, if acquisition of the property were pursued through public funds, additional funds would have to be identified by the City to pay for the costs of habitat restoration and parkland improvements. Further, the City and public would be required to either allow the oil operator to continue its operations until oil operations cease, or pay for the consolidation, clean up and remediation of the oilfield to implement the habitat and parkland goals of the City's General Plan. The Project provides for the consolidation of the existing oil operations into two areas thereby permitting oilfield abandonment and clean up to commence on the remainder of the Project site (approximately 380 acres) in advance of when they would have occurred, and at no cost to the City or the public. In addition, the oil

operation consolidation would allow for habitat restoration activities to occur in advance of when it would have absent the Project's ability to require consolidation.

**5. Provision of areawide water quality benefits**

The Project is designed to include water quality basins that are proposed to be sized to treat off-site urban run-on from areas of the Cities of Costa Mesa and Newport Beach developed with commercial, industrial and residential uses. These areas currently drain through the Project site and flow untreated into the Project's lowland areas and to the Semeniuk Slough. The water quality basin would also capture and treat on-site urban runoff from within the Project. The 103-acre Semeniuk Slough is identified in the City's Coastal Land Use Plan as an Environmental Study Area which is characterized by open estuarine, southern coastal salt marsh, and ornamental plant communities. Potential impacts to the Semeniuk Slough include water quality degradation and sediment build-up. (Coastal Land Use Plan at pages 4-15 and 4-16) By capturing and treating this urban runoff, the Project would provide significant water quality benefits to the Semeniuk Slough.

**6. Payment to City of a public benefit fee**

In addition to any other fee or charge to which the Project would be required to pay, the Project would to the City a public benefit fee of approximately \$30,909 for each residential unit constructed on the property

**7. Net fiscal benefits to the City**

The Fiscal Impact Analysis of the Proposed Newport Banning Ranch Annexation to the City of Newport Beach prepared by Applied Development Economics concluded that the Project would have a net fiscal benefit of nearly \$2 million per year if all of the proposed land uses are fully developed. Furthermore, even if the resort Inn and retail and service commercial uses are not developed, the Project would have a net fiscal benefit of nearly \$1.4 million per year.

**8. Provide a variety of housing opportunities within the City consistent with the City's General Plan**

The City's Housing Element establishes as a goal: A balanced residential community, comprised of a variety of housing types, designs, and opportunities for all social and economic segments. (Housing Element Goal H2) The Project would provide a wide range of housing types from single-family detached to higher density attached and multi-family units that would provide a variety of housing opportunities within one site – a feature not available in many other areas of the City or new developments elsewhere in the City due to the limited number of sites and the sizes of parcels available for new residential development. In addition, the Project would provide a minimum of 50 percent of its affordable housing requirements on site which would provide greater opportunities for all segments of the City's population to enjoy living on the Project site.

**9. Fire station improvements**

The Project would contribute \$510 per residential unit or up to \$700,000 with full build-out towards the redevelopment of Newport Beach Fire Station No. 2, and in the event

the redevelopment of a station is not completed by the City prior to development of certain areas of the Project site, the Project would make available an on-site location for a temporary fire station.

**10. Sustainable design**

In addition to its emphasis on a mix of uses and housing opportunities, the Newport Banning Ranch Project is designed to be a sustainable and green community that provides energy efficiency and resource conservation to reduce the Project's greenhouse gas emissions, consistent with AB 32. The following Project components implement sustainability:

- The Project would provide a network of public pedestrian and bicycle trails to reduce auto dependency by connecting proposed residential neighborhoods to parks and open space within the Project site and to off-site recreational amenities, such as the beach and regional parks and trails. The Project would coordinate with the Orange County Transportation Authority to allow for transit routing through the Project site.
- The Project is registered under the Leadership in Energy and Environmental Design-Neighborhood Development (LEED-ND) Program, and will be consistent with the program's green building requirements.
- The Project provides compact development patterns by concentrating development in two main clusters which minimize habitat fragmentation and provides larger, more contiguous areas for open space protection, habitat restoration and parkland.
- The Project would implement a "dark sky" lighting program to minimize light spillage into adjacent native habitat areas.
- The Project would exceed adopted 2008 Title 24 energy conservation requirements by a minimum of 5 percent.
- The Project would require that all residential development incorporate low water use appliances; Smart Controller irrigation systems; Freon-free air conditioning units; multimetering "dashboards" in each dwelling unit to visualize real-time energy use; and solar orientation of structures to promote compatibility with the installation of photovoltaic panels or other current solar power technology.
- The Project has provisions for parking spaces for electric or hybrid vehicles and installation of facilities for Level 2 electric vehicle recharging.
- The Project would implement remediation and cleanup of the oilfield, which includes the ability to recycle and properly dispose on-site oilfield materials. Additionally, the treatment and cleaning of impacted soils would be done on site which significantly reduces the potential export of oil field materials and impacted soils.
- The Project would also increase construction waste diversion by 50 percent from 2010 requirements; and recycle and reuse construction materials onsite to minimize off-site hauling and disposal of materials.



## **11. Circulation Improvements**

The Project, through an agreement with the City of Costa Mesa, will fund intersection improvements for intersections in that City. Although outside of the City of Newport Beach, these traffic improvements will provide benefits to City of Newport Beach residents who use these streets. The Applicant will incrementally fund the City of Costa Mesa for intersections improvements. At Project build out, the Project will have provided approximately \$4.3 million in contributions to intersection improvements which is more than double the Project's fair share requirements based upon the traffic analysis in the Final EIR.

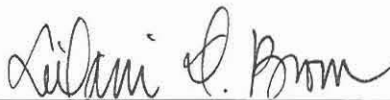
STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                   }  
CITY OF NEWPORT BEACH               }           ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2012-59 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 23<sup>rd</sup> day of July, 2012, and that the same was so passed and adopted by the following vote, to wit:

Ayes:       Rosansky, Curry, Selich, Henn, Daigle, Mayor Gardner

Absent:     Hill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25<sup>th</sup> day of July, 2012.



\_\_\_\_\_  
City Clerk  
Newport Beach, California

(Seal)

