

EXHIBIT L

RESOLUTION NO. 09- 31

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
EL CENTRO APPROVING MILLER BURSON TENTATIVE
SUBDIVISION MAP

WHEREAS, the City Council of the City of El Centro, California, (hereinafter referred to as "City Council") has conducted a public hearing upon a proposed request for Miller Burson Tentative Subdivision Map, which proposes the division of 160 acres of land in order to create 485 single-family residential lots, two detention basins, two public parks and a school site on property generally located south of Ross Avenue, east of Austin Road, north of Interstate 8 and west of the Lotus Drain, further described as APN 052-280-008; and

WHEREAS, the City Council has received a report from the Planning Commission relating to Miller Burson Tentative Subdivision Map, including Planning Commission Resolution No. 09-06, recommending approval of Miller Burson Tentative Subdivision Map, subject to certain conditions as specified hereto under Exhibit A; and

WHEREAS, after conducting a duly noticed and advertised public hearing and having considered the report and recommendation of the Planning Commission, including Final Environmental Impact Report No. 05-02, the City Council hereby finds that the project as proposed is in conformity with the City's development policies; and

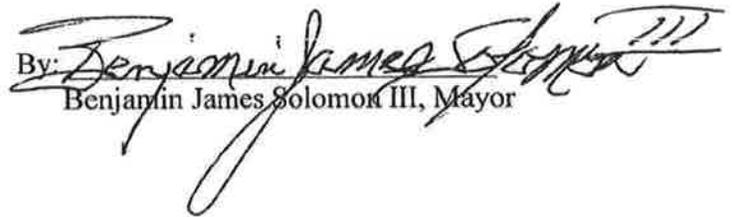
WHEREAS, after due consideration of all written and oral evidence, the City Council has found that it is in the best interest of the City of El Centro, California, to adopt the recommendation of the Planning Commission to approve said Miller Burson Tentative Subdivision Map and the proposed findings and conditions as recommended by the Planning Commission.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CENTRO, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

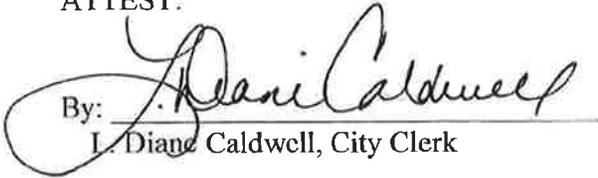
1. The City Council grants conditional approval of Miller Burson Tentative Subdivision Map --, a copy of which is on file in the office of the City Clerk, to allow the division of 160 acres of land in order to create 485 single-family residential lots, two detention basins, two public parks and a school site on property generally located south of Ross Avenue, east of Austin Road, north of Interstate 8 and west of the Lotus Drain, further described as APN 052-280-008, subject to the listed conditions under Exhibit A and the findings under Exhibit B, attached hereto and made a part of this resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of El Centro, California, held on the 6th day of May, 2009.

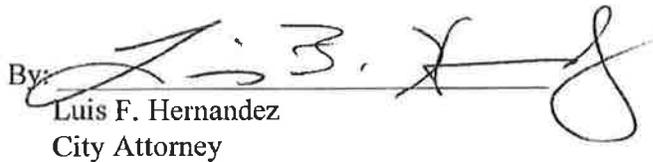
CITY OF EL CENTRO

By: 
Benjamin James Solomon III, Mayor

ATTEST:

By: 
L. Diane Caldwell, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

By: 
Luis F. Hernandez
City Attorney

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) ss
CITY OF EL CENTRO)

I, L. Diane Caldwell, City Clerk of the City of El Centro, California, do hereby certify that the foregoing Resolution No. 09-31 was duly and regularly adopted at a regular meeting of the City Council of the City of El Centro, California, held on the 6th day of May, 2009, by the following vote:

AYES: Silva, Viegas-Walker, Solomon, Sanders, Edney
NOES: None
ABSENT: None
ABSTAINED: None

By: 
L. Diane Caldwell, City Clerk

EXHIBIT A

Conditions:

1. The project shall include the development of a maximum of 485 single-family residential lots. The term "Developer" shall mean the person or entity who is the owner of the property constituting the Project, or any portion thereof, at the time that any of the conditions set forth herein are to be applied to such property and includes, without limitation, any owner which is the successor or assign of such person or entity.
2. Building permits shall not be issued for any new construction related to the project until verification from the elementary and high school districts is received, certifying that the State mandated school impact mitigation fees (in accordance with Senate Bill 50) have been paid or addressed as otherwise provided or authorized by law.
3. Prior to the recordation of the final map, the Developer shall either pay the City a fair share payment (4.9%) towards the cost of signalizing the intersection at Forrester Road and Interstate 8, post security for the said fair share payment or enter into an agreement with the City to defer such fair payment to such later time as may be agreed upon between the City and the Developer.
4. Prior to the recordation of the final map, the Developer shall either pay the City a fair share payment (18.7%) towards the cost of signalizing the intersection of Forrester Road and Ross Avenue and to provide a northbound and southbound left-turn pocket, post security for the said fair share payment or enter into an agreement with the City to defer such fair share payment to such later time as may be agreed upon between the City and the Developer.
5. Prior to the recordation of the final map, the Developer shall either pay the City a fair share payment (5.5%) towards widening of Forrester Road between Interstate 8 and Ross Avenue, post security for the said fair share payment or enter into an agreement with the City to defer such fair share payment to such later time as may be agreed upon between the City and the Developer.
6. Prior to the recordation of the final map, the Developer shall either pay the City a fair share payment (28.7%) towards widening of Ross Avenue between La Brucherie Avenue and Imperial Avenue to four lanes, post security for the said fair share payment or enter into an agreement with the City to defer such fair share payment to such later time as may be agreed upon between the City and the Developer.
7. Prior to the issuance of the first certificate of occupancy, the Developer shall improve the eastbound approach to provide a left-turn lane, a thru lane and a shared thru/right lane at the intersection of La Brucherie Avenue and Main Street.

8. Prior to issuance of the first certificate of occupancy, the Developer shall provide an eastbound right turn overlap phase (RTOL) at the intersection of Imperial Avenue and Ocotillo Drive.
9. Prior to the recordation of the final map, the Developer shall pay the appropriate fair share to the Wildflower and Desert Village West development for the widening of Ross Avenue between Lotus Avenue and Austin Road. The fair share shall cover one-half of the additional left hand turn lane provided by the previous developments.
10. Prior to issuance of the first certificate of occupancy, the Developer shall widen Ross Avenue to include two dedicated bike lanes, four thru lanes, a left hand turn lane and appropriate on-street parking lanes as per City standards.
11. Prior to the issuance of the first certificate of occupancy, the westerly extension of Ocotillo Drive shall be completed per City standards as a four lane collector street.
12. Prior or concurrent to the recordation of the final map, the Developer shall dedicate to the City the necessary right-of-way for the future widening of Austin Road and the future interchange at Austin and Interstate 8.
13. Prior or concurrent to the recordation of the final map, the Developer shall either pay a fair share payment (22%) towards the improvement of the Ross Avenue/Austin Road intersection, post security for the said fair share payment or enter into an agreement with the City to defer such fair share payment to such later time as may be agreed upon between the City and the Developer. The fair share improvements include signalization and the relocation of the headwall to the Central Main and Evergreen Canals on the south side of Ross Avenue.
14. Prior to issuance of a grading permit, the Developer shall provide construction contracts which specify that all construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.
15. Prior to issuance of a grading permit, the Developer shall notify residents within 100 feet of the project site regarding the construction schedule of the proposed project. All notices shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints.
16. Prior to issuance of a grading permit, the Developer shall erect a sign, legible at a distance of 50 feet, posted at the construction site. The sign shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints.
17. Prior to the recordation of the final map, the Developer shall be required to enter into an agreement with the City for the payment of the fair share cost to mitigate the operation and maintenance impacts to fire and police services caused by the approval of the project. The

description of the security for the agreement and the method of payment shall be included in the agreement.

18. Prior to the first final inspection, the existing Evergreen Canal abutting the western boundary and the Lotus Drain and Lotus Canal abutting the eastern boundary of the project site, shall be pipelined, undergrounded and landscaped in accordance with the specifications of the Imperial Irrigation District (IID). Notwithstanding the foregoing, the existing Evergreen Canal mentioned above does not need to be pipelined or undergrounded in the event that IID does not require that this be done.
19. A ten (10') foot high solid decorative block/masonry or stucco wall shall be provided along the southern boundary of the project site.
20. A six (6') foot high solid decorative block/masonry or stucco wall shall be provided along the western boundary of the project site. Said wall shall also be provided along the rear and sides of all lots backing/siding onto public streets, park and detention basin.
21. The proposed storm water detention basins for the project site shall be developed in accordance with the City's design standards for retention basins.
22. Prior to the recordation of the final map, Developer shall establish a Lighting/Landscaping Maintenance Assessment District for the project in order to pay for the maintenance of any landscaping within the public right-of-way, I.I.D. easements, retention basin, park and street lighting. Nothing in this section shall prohibit or is intended to prohibit the creation of a Community Facilities District (CFD) or other financing mechanism which the Developer, in its sole discretion, may choose to implement with respect to the project subject; however, to the City's policy for the creation of CFDs.
23. Prior to grading permit, the applicant conduct a pre-construction survey no more than 30 days prior to ground disturbing activity to ensure that owl burrows have not become established within the impact area. Should a burrowing owl move into the area prior to construction then mitigation should consist of passive relocation with a one-way door to avoid direct impacts to any burrowing owl on site. Passive relocation should be conducted during the non-breeding season (Sep 1 – Jan 31) to ensure active nests are not lost as a result of owl exclusion. The methodology for owl relocation should follow the guidelines set forth in the *CDFG Staff Report on Burrowing Owl Mitigation*.
24. Prior to the issuance of a building permit, the Developer shall comply with the Imperial County Air Pollution Control District's (ICAPCD) Rule 310 by either implementing a project specific Alternative Emission Reduction Plan to reduce emissions by 100%, paying the APCD Operation Development Fee, or a combination of the two. The project shall be required to comply with regional rules, including the ICAPCD Rule VIII- Fugitive Dust Rules as well as ICAPCD CEQA Handbook Measures for Construction equipment and Fugitive PM10 control that assist in reducing short-term air pollutant emissions. Applicable dust suppression techniques are summarized below.

Implementation of these dust suppression techniques will reduce the fugitive dust generation (and thus the PM₁₀ component).

ICAPCD Rule VIII

- All persons who own or operate a construction site shall implement BACM for PM₁₀ so as to limit visible dust emissions (VDE) to 20% opacity and comply with the conditions for a stabilized surface when applicable.
- All persons who own or operate a construction site of 10 acres or more in size for residential developments or 5 acres or more for non-residential developments shall develop a dust control plan. The dust control plan shall be made available to the APCD upon request.
- Track Out/Carry Out: any person who causes the deposition of bulk material by tracking out or carrying out onto a paved road surface shall implement BACM for PM₁₀ to prevent or mitigate such deposition.
- Unpaved Roads: On any unpaved road segment with 50 or more average vehicle trips per day, the owner/operator shall limit VDE to 20% opacity, as determined by the test methods for "Visual Determination of Opacity" in Rule 800, Appendix A, and comply with the requirements of a stabilized unpaved road by application and/or maintenance of at least one of the requirements of BACM for PM₁₀.

Contractors shall implement measures to reduce ROG and NO_x emissions from off-road construction equipment during construction activities. During construction, the following measures shall be included in construction specifications, and implemented during construction.

- The contractor shall properly maintain equipment according to manufacturers' specifications.
- The contractor shall restrict the idling of construction equipment to no longer than 10 minutes.
- The contractor shall use only diesel equipment or diesel vehicles with engines built in 1996 or later.
- The contractor shall restrict off-road machinery to those pieces equipped with cooled exhaust gas recirculation (EGR) where feasible.

Building Contractors shall implement measures to reduce ROG emissions from architectural coatings. Building contractors should be required to use water-based coatings for both exterior and interior walls on all building structures. The recommend average solvent content for architectural coatings is approximately 6 grams per liter.

ICAPCD CEQA Handbook

Standard Mitigation Measures for Construction Equipment

- Maintain all construction equipment in proper tune according to manufacturer's specifications.
- Fuel all off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, auxiliary power units, with ARB-certified motor vehicle diesel fuel (non-taxed version suitable for use off-road).
- Maximize to the extent feasible, the use of diesel construction equipment meeting the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines.
- Install diesel oxidation catalysts (DOC), catalyzed diesel particulate filters (CDPF) or other District-approved emission reduction retrofit devices.

Standard Mitigation Measures for Fugitive PM₁₀ Control

- The entire site shall be pre-watered for 48 hours prior to clearing and grubbing.
- Reduce the amount of the disturbed area where possible.
- Water at least twice daily or otherwise stabilizes all active construction areas.
- All dirt stock-pile areas should be sprayed daily as needed.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Haul trucks shall cover loads or maintain at least 6" of freeboard when traveling on public roads.
- Pre-moisten, prior to transport, import and export materials that have a silt content of 5% or greater. Water all materials with a silt content of 5% or greater with a spray bar or cover trucks hauling dirt, sand, or loose materials. Empty trucks and trucks carrying asphalt material are excluded from this requirement.
- Sweep streets at the end of each day if visible soil material is carried onto streets, or wash off truck and equipment leaving the site.

Mitigation Measures for Fugitive PM₁₀ Control

- Use of water trucks or sprinkler system in sufficient quantities to prevent airborne dust from leaving the site. When wind speeds exceed 15 mph the operators shall increase watering frequency.
- Apply chemical soil stabilizers or apply water to form and maintain a crust on in active construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
- Apply non-toxic binders (e.g. latex acrylic copolymer) to exposed areas after cut and fill operations and hydro seeded areas.
- Plant vegetative ground cover in disturbed areas as soon as possible and where feasible.
- Cover or apply water or chemical suppressants to form and maintain a crust on inactive storage piles.
- All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

- Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
- Install wheel washers, rumble gates, provide a gravel pad or pave the area where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
- Contractor shall utilize electric or alternative fuel powered equipment in lieu of gasoline or diesel powered engines where feasible.
- The Construction Contractor shall ensure that construction-grading plans include a statement that work crews will shut off equipment when not in use.
- The Construction Contractor shall time the construction activities so as to not interfere with peak hour traffic and minimize obstruction of through traffic lanes adjacent to the site where feasible; if necessary, a flag person shall be retained to maintain safety adjacent to existing roadways.

The Construction Contractor shall support and encourage ridesharing and transit incentives for the construction crew

25. In accordance with the provisions of the Subdivision Map Act, the Developer shall be responsible for any costs associated with right-of-way acquisition, if necessary. Subject to Section 66462.5 of the Subdivision Map Act, in the event that the City of El Centro is required to secure or condemn any off-site real property interests in order to secure any right-of-ways or easements necessary to permit the Developer to construct or install any offsite improvements which are required pursuant to these conditions of approval, then the Developer shall be responsible for reimbursing the City of El Centro for the costs incurred by it in securing or condemning such off site real property interests.
26. Prior to the approval of the final subdivision map, grading plan or implementing permit, a site specific drainage study and detention basin design shall be conducted by a registered civil engineer and submitted for review and approval by the City.
27. Relocation and underground plans for canals and drains shall be designed to maintain existing flow rates and structure capacity to the satisfaction of the City and Imperial Irrigation District.
28. The project shall provide parkland acreage of 5 acres per 1,000 residents in accordance with the City's Subdivision Ordinance and the Parks and Recreation Master Plan. A shaded school bus pick up/drop off area shall be provided within the park site in accordance with the School District's specifications.
29. The project shall provide the following minimum building setbacks: front yard, twenty (20') feet; side yards, five (5') feet on one side and ten (10') feet on the other side; exterior side yard for corner lots, fifteen (15') feet; and rear yard, five (5') feet for single story and twenty-five (25') feet for two story.
30. Concurrently with the recordation of the final map, all street dedications shall be provided in accordance with the City's Subdivision Ordinance.

31. Prior to the issuance of the first certificate of occupancy of each phase of development, all off-site improvements (curb, gutter, sidewalk, and paving) shall be provided in accordance with the City's Subdivision Ordinance including parkways not less than 6.5 feet wide, measured from the face of the curb to the outside edge of the sidewalk.
32. Utilities shall be provided in accordance with the City's Master Water/Sewer Plan. If any improvements (including without limitation in relation to streets, water, sewer, or any other facilities or utilities) required to be constructed or paid for by the Developer and/or the project are in excess of the pro-rata portion of such improvements for which the Developer and/or the project is responsible, as identified in the Conditions of Approval, the Mitigation Monitoring and Reporting Program in Final EIR or otherwise, the Developer/ and/or the project, as applicable, shall be reimbursed for the costs of such excess from any other developments which utilize or benefit from such improvements.
33. Prior to the issuance of a certificate of occupancy for each residential unit, the Developer shall provide a minimum of two trees per lot within the parkway strip. Said trees shall be selected from the City's tree list and consist of a variety of trees. Street themes shall be provided.
34. Prior to the issuance of each building permit, the Developer shall pay the appropriate development impact and sewer/water capacity fees.
35. Fire hydrants, markers, and water mains shall be provided in accordance with the Fire Department's specifications. All fire hydrants shall be on a looped water system and shall be in service before any combustible construction begins.
36. Grading and drainage plans shall be submitted to the City for review and approval prior to approval of the final map.
37. The project shall comply with all applicable provisions of the California Code of Regulations Title 24 (ADA).
38. Developer shall coordinate project flood protection improvements with current efforts of the Imperial Irrigation District and other public agencies to provide regional flood protection facilities, if applicable.
39. In the event the project is phased, the Developer shall submit a phase plan and identify all required public improvements to the satisfaction of the Director of Public Works and Director of Planning and Zoning for approval prior to the submittal of any unit map. Further, in the event the project is phased, these conditions of approval shall be interpreted and applied to facilitate the development and construction of the Project according to such phases. Multiple Final Maps may be filed for recordation prior to the expiration of the Tentative Subdivision Map.

40. The Developer shall install water and sewer utility lines, laterals and fire hydrants within Lotus Lane from Ross Avenue to Interstate 8 in accordance with City standards. The installation of the water and sewer utilities shall be completed prior to the issuance of the 240th building permit or within 2 (two) years of commencement of development, whichever comes first. The Developer shall be reimbursed up to 50% of the cost of installation of said utilities by future developments.
41. The Developer shall post a bond or other surety to mitigate the cost of establishing a raw water connection for the Lotus Lane residents at such time the Lotus Canal is abandoned by the Imperial Irrigation District.
42. Conduit and fiber optic lines shall be installed to any and all current or future planned public facilities which includes schools, etc. to the satisfaction of the Imperial Valley Telecommunications Authority (IVTA) and the Director of Public Works. A fiber optic conduit shall also be installed along Ross Avenue to Austin Road.
43. Pursuant to Section 66474.9 of the California Government Code, the applicant shall defend, indemnify, and hold harmless the City of El Centro, its agents, officers and employees to attack, set aside, void, or annul, the approval of the City Council concerning the Environmental Impact Report and the tentative subdivision map, which action is brought within the time period provided for in California Government Code Section 66499.37. However, the City of El Centro shall promptly notify the applicant/subdivider of any claim, action, or proceeding and that the City shall cooperate fully in defense.
44. Except as noted above, all conditions shall be met prior to the recordation of the final map.
45. The project shall comply with all applicable Federal, State and local codes, ordinances and resolutions.

EXHIBIT B

FINDINGS

1. That the proposed map is consistent with applicable general and specific plans.
2. That the design or improvements of the proposed subdivision is consistent with applicable general and specific plans.
3. That the site is physically suitable for the type of development.
4. That the site is physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvement are not likely to cause serious public health problems.
7. That the design of the subdivision or 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.

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)§
CITY OF EL CENTRO)

I, L. Diane Caldwell, City Clerk of the City of El Centro, California do hereby certify that the foregoing is a true and correct copy of Resolution No. 09-31 which was duly and regularly adopted at a regular meeting of the City Council of the City of El Centro held on the 6th day of May, 2009 by the following vote:

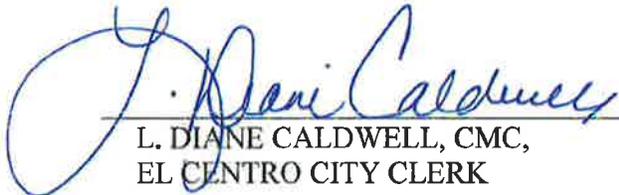
AYES: Silva, Viegas-Walker, Solomon, Sanders, Edney

NOES: None

ABSENT: None

ABSTAINED: None

(SEAL)



L. DIANE CALDWELL, CMC,
EL CENTRO CITY CLERK