

CITY COUNCIL OF THE CITY OF SEASIDE

RESOLUTION NO. 05-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SEASIDE RESORT PROJECT, MAKING FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM.

Recitals of Fact:

A. WHEREAS, on February 17, 2000, the City of Seaside (the "City") entered into the "Exclusive Negotiating Rights Agreement for Golf Course Resort Site" ("the ENRA") with Seaside Resort Development, LLC (the "Applicant") with respect to the development of a resort project, including hotel, timeshare and residential components (the "Project"), on approximately 84.88 acres of land (the "Property") within the parcel upon which the Bayonet and Black Horse golf courses are located, which parcel is also known as Assessor's Parcel Number 031-051-005; and

B. WHEREAS, the U.S. Army prepared the Fort Ord Disposal and Reuse Final Environmental Impact Statement (June 1993) and the Fort Ord Disposal and Reuse Draft Supplemental Environmental Impact Statement (December 1995), relating to the disposal and reuse of the Fort Ord military base, including the Property, and which evaluated environmental issues related to Fort Ord base closure actions; and

C. WHEREAS, the U.S. Army caused to be prepared the Installation-Wide Multispecies Habitat Management Plan (the "HMP") for the Former Fort Ord, California, dated April 1997, to provide mitigation for certain impacts to biological resources due to the U.S. Army's decision to close and dispose of the Fort Ord military base; and

D. WHEREAS, on June 13, 1997, the Fort Ord Reuse Authority certified, and adopted findings in consideration of, the Fort Ord Reuse Plan Final Program Environmental Impact Report (the "Reuse Plan EIR"), a program environmental impact report prepared pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), and as specifically provided for in CEQA Guidelines Section 15168, which Reuse Plan EIR evaluated the potentially significant environmental effects of the Fort Ord Reuse Plan (as defined below), including the effects of developing the lands within the former Fort Ord, including the Property, in a manner consistent with the Fort Ord Reuse Plan; and

E. WHEREAS, on June 13, 1997, the Fort Ord Reuse Authority ("FORA") adopted the Fort Ord Reuse Plan, a comprehensive planning document intended to guide development of lands within the former Fort Ord, including the Property, prepared pursuant to Government Code Section 67650 et seq. (the "Reuse Plan"); and

F. WHEREAS, on August 12, 1998, by Resolution No. 98-81, the City adopted amendments to its General Plan for the purpose of providing land use designations, policies, and development standards for the City's lands within the former Fort Ord, including the Property, in conformance with the land use designations and development standards and policies of the Reuse Plan; and

G. WHEREAS, in conjunction with the approval of the General Plan amendments adopted by Resolution No. 98-81, the City prepared an Addendum to the Reuse Plan EIR (hereafter included in the definition of the "Reuse Plan EIR"), in which the City adopted certain mitigation measures and a mitigation monitoring program, as provided in Resolution No. 98-81; and

H. WHEREAS, by Ordinance No. 878, introduced on August 12, 1998 and approved on September 3, 1998, the City adopted amendments to its Zoning Ordinance for the purpose of providing zoning designations and development standards for the City's lands within the former Fort Ord, including the Property, in conformance with the land use designations, policies, and development standards of the Reuse Plan; and

I. WHEREAS, on November 30, 1998, FORA and the Sierra Club entered into a Settlement Agreement and FORA adopted Chapter 8 of the Fort Ord Reuse Authority Master Resolution, also known as Chapter I, Base Reuse Planning and Consistency Determinations ("FORA Master Resolution") that, among other matters, includes additional provisions related to Base Reuse Planning and Consistency Determinations for the Property as part of the former Fort Ord site; and

J. WHEREAS, on December 11, 1998 by Resolution No. 98-2, the Fort Ord Reuse Authority ("FORA") determined that the amendments to the City's General Plan and Zoning Ordinance were consistent with the Reuse Plan pursuant to Government Code Section 67675 et seq. and the FORA Master Resolution; and

K. WHEREAS, the requirements of the HMP are applicable for all parties receiving land at the former Fort Ord through the development and execution of a Habitat Conservation Plan ("HCP") and Implementing Agreement ("IA"), drafts of which were submitted to the U.S. Fish and Wildlife Service ("USFWS") and the California Department of Fish and Game ("CDFG") in 2000, and are pending signature and execution by USFWS and CDFG; and

L. WHEREAS, in 2000, the U.S. Army and FORA entered into a Memorandum of Agreement for the Sale of Portions of the Former Fort Ord, that obligates FORA and member jurisdictions to, among other matters, implement the HMP, more specifically through execution of the HCP and IA; and

M. WHEREAS, FORA and the City intend to take the necessary action to execute the HMP upon signature of the HCP and IA by the USFWS and CDFG, and have incorporated conditions into the Project (the "Project Conditions") consistent with the requirements of state and federal law regarding the protection of biological resources; and

N. WHEREAS, on April 18, 2002, by Ordinance No. 901, the City Council of the City ("City Council") and the Redevelopment Agency of the City ("Agency") adopted the Redevelopment Plan for the Seaside-Fort Ord Redevelopment Project (the "Redevelopment Plan"); and

O. WHEREAS, on May 31, 2001, FORA and the City entered into that certain Implementation Agreement, which implements the provisions of the Reuse Plan within the jurisdiction of the City, the provisions of which are applicable to the Property; and

P. WHEREAS, on July 19, 2001, by Ordinance No. 897, the City adopted an amendment to Title 17 Chapter 17.89 of the Seaside Zoning Ordinance to allow conditional uses, including residential, timeshare and employee housing uses, in the V-FO Zoning District based on the adoption of a Negative Declaration that was circulated with an Initial Study for public review between May 30, 2001 and June 18, 2001; and

Q. WHEREAS, on August 10, 2001, by Resolution 01-8, the Fort Ord Reuse Authority ("FORA") determined that conditional uses, including golf courses and ancillary uses, in the V-FO District of the Seaside Zoning Ordinance were consistent with the Fort Ord Reuse Plan, pursuant to Government Code Section 67675 et seq. and the Master Resolution; and

R. WHEREAS, the Property is subject to that certain Redevelopment Plan for the Seaside-Fort Ord Redevelopment Project (the "Redevelopment Plan"), adopted by the City Council and Redevelopment Agency on April 18, 2002, by Ordinance 901; and

S. WHEREAS, the City, in accordance with the requirements of CEQA and the CEQA Guidelines, caused to be prepared and distributed a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the proposed Project on October 9, 2001, which advised certain local, state and federal agencies and jurisdictions that the City intended to prepare an EIR for the proposed Project, and as noticed within the NOP, on October 29, 2001 conducted a public scoping meeting to receive additional comments on the NOP and scope of an EIR for the Project; and

T. WHEREAS, the Project that was reviewed pursuant to CEQA is defined in Section 1.3 of the DEIR as including the subdivision of the 380 acre parcel that is currently developed as the Blackhorse and Bayonet golf courses. The approximately 81 acres that would be utilized for the Resort Project sites would be conveyed from the City to the Agency and then to the Applicant for development of a 330-room hotel, consisting of a main hotel with 15 bungalows, 170 timeshare units in 33 buildings, and 125 single-family residential lots. The existing golf course would continue on the remainder parcel. Included in the Project is the reconstruction of the existing golf clubhouse.

U. WHEREAS, the intended uses of the EIR and the decisions to be made by the City and/or the Agency in reliance on the EIR include subdivision maps to create individual lots for the hotel, timeshare and residential components of the project, the conveyance of the 84.88 acre portion of property from the City to the Agency, and the Agency to the Applicant, a

Conditional Use Permit for the residential component, a Conditional Use Permit for the timeshare component, Site Plan Review for the hotel component, Design Review Approval for the overall project, a Conditional Use Permit for on-sale alcoholic beverages, and building, grading and other applicable constructions permits for all components of the project. In addition, the EIR is intended to be the environmental document for the Agency's action to approve the Disposition and Development Agreement and associated implementing actions and agreements. The EIR is also intended to constitute the environmental document for the Ford Ord Reuse Authority's decision to determine the Project to be in Conformance with the Ford Ord Reuse Plan.

V. WHEREAS, the City received six (6) comments on the DEIR NOP that were intended by the commenters to guide the scope and content of the EIR; and

W. WHEREAS, the City, in accordance with the requirements of CEQA and the CEQA Guidelines, prepared the DEIR and filed a Notice of Completion with the California Office of Planning and Research State Clearinghouse and the Monterey County Clerk on August 15, 2002 which commenced the 45-day period of time for public and agency review and comment through January 16, 2003 on the Seaside Resort Project Draft Environmental Impact Report, dated August 2002, (the "DEIR") for the Project; and

X. WHEREAS, the City, in accordance with the requirements of CEQA and the CEQA Guidelines, and partially in response to comments filed regarding the DEIR, prepared a Revised Draft Environmental Impact Report ("RDEIR") dated May 2004 to address changed conditions and/or new information regarding water supply and traffic. The City filed a Notice of Completion with the California Office of Planning and Research State Clearinghouse and the Monterey County Clerk on May 6, 2004, which commenced a 30-day period of time for public and agency review and comment, which period was approved by the California Office of Planning and Research State Clearinghouse, through June 7, 2004; and

Y. WHEREAS, the City, in accordance with the requirements of CEQA and the CEQA Guidelines, has considered and evaluated comments on environmental issues submitted by persons and agencies that reviewed the DEIR and/or RRDEIR during the applicable public review periods. The City has prepared written responses to such comments regarding actual environmental issues, as required by CEQA. The City's response, contains copies of comments received by the City during the applicable public review periods for the DEIR and RDEIR, a list of persons and entities commenting on the DEIR and RDEIR, the responses of the City to environmental issues raised in those comments and elsewhere in the review and consultation process, a description of the disposition of any significant environmental issue that was raised by commenters, and a description of the changes made to the DEIR and RDEIR text and figures. Pursuant to Public Resources Code Section 21092.5, the City has provided copies of its written proposed responses to all public agencies that commented on the DEIR and/or RDEIR at least ten (10) days prior to certification of the FEIR; and

Z. WHEREAS, the Final Environmental Impact Report (the "FEIR") includes: 1) the DEIR and RDEIR as presented to the Planning Commission; 2) the responses to comments; 3) subsequent minor technical revisions of the DEIR or RDEIR made by the City up to the time of

certification of the FEIR by the City Council, the City's written responses to significant environmental points raised in the public and agency review and consultation process, and any other information added to the FEIR by the City prior to certification of the FEIR; and 4) the final mitigation measures for the project; and

AA. WHEREAS, the FEIR analyzes the environmental impacts of the Project, including project, cumulative, growth-inducing and irreversible environmental impacts, identifies and analyzes mitigation measures intended to reduce environmental impacts and considers alternatives to the Project; and

AB. WHEREAS, the City has caused to be prepared a Mitigation Monitoring and Reporting Program pursuant to California Public Resources Code Section 21081.6 and the CEQA Guidelines section 15097, to ensure compliance with EIR mitigation measures required of the Project by the City; and

AC. WHEREAS, on March 4, 2004, on September 28, 2004 and then again on December 15, 2004, the City and the Applicant entered into an amended and restated ENRA; and

AD. WHEREAS, on August 5, 2004, the City Council certified an EIR for the comprehensive update to the City's General Plan by way of Resolution No. 04-58, adopted the comprehensive update to the Seaside General Plan by way of Resolution No. 04-59, and pursuant to that updated General Plan continued the land use designation of the Property as Recreational Commercial. The FORA Board determined that the Seaside General Plan was consistent with the Fort Ord Reuse Plan on December 1, 2004 by way of Resolution No. 04-6.

AE. WHEREAS, the BAR conducted duly noticed public hearings on June 16, 2003, July 20, 2004 (field trip) and July 21, 2004 at which meetings it received public testimony, and recommended with conditions approval of the Project's architecture, landscaping, and other aesthetic and design issues in accordance with its duties under Chapter 17.70.070 of the Municipal Code of the City; and

AF. WHEREAS, on August 25, 2004 and continued to September 8, 2004, the Planning Commission held a duly noticed public hearing to consider the EIR and the Project applications, and following public testimony, closed the public hearing.

AG. WHEREAS, by Resolution No. 04-37 dated September 8, 2004, the Planning Commission has recommended certification of a Final Environmental Impact Report (the "FEIR") for the Project, the findings and evidence for which are incorporated herein by reference; and

AH. WHEREAS, by Resolution No. 04-38 dated September 8, 2004, the Planning Commission made findings, including findings that the Project and the conveyance of the Property to the Applicant was consistent with the City's General Plan, and recommended approval of Vesting Tentative Subdivision Map TM-01-03, Use Permit UP-01-21 (Residential Component), Use Permit UP 01-20 (Timeshare Component), Site Plan Review SPR-01-03 (Hotel Component), Design Review BAR 01-27, Use Permit UP-04-22 (On-Sale Alcoholic

Beverages), subject to conditions, as those conditions were modified by the Planning Commission, and recommended approval of the Mitigation Monitoring and Reporting Program; and

AI. WHEREAS, by the FEIR, staff report and exhibits accompanying this Resolution and incorporated into this Resolution by this and other references, the City Council has been provided with additional information upon which the findings and actions set forth in this Resolution are based; and

AJ. WHEREAS, notice of time and place of hearing for certification of the FEIR and consideration of the Project land use permits were given in the manner prescribed by Chapters 16.16.060 and 17.68.040 of the Municipal Code of the City and CEQA statutes and guidelines; and

AK. WHEREAS, on July 7, 2005, the City Council and the Redevelopment Agency held a duly noticed joint public hearing to consider the EIR, the Project applications, the DDA and a Conveyance Agreement, and following public testimony, closed the public hearing; and

AL. WHEREAS, the matters of the FEIR and the Project land use permits were called for hearing, and oral and documentary evidence was introduced and received and the matters submitted for a decision.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEASIDE, CALIFORNIA, AS FOLLOWS:

1. The City Council does hereby find that the above recitals and the information contained in the attached Exhibits are accurate and are hereby incorporated in and made part of this Resolution by this reference.

2. The City Council does hereby find: (1) that the Final Environmental Impact Report for the Project has been completed in compliance with CEQA and the CEQA Guidelines; (2) that the FEIR was presented to the City Council and the City Council has reviewed and considered the information contained in the FEIR and public testimony received thereon during the hearing prior to any action on the Project; (3) that the FEIR reflects and represents the City Council's independent judgment and analysis and adequately addresses the impacts of, and proposes appropriate mitigation measures upon, the City's actions in approving or taking action on the Project; (4) that the FEIR is the appropriate and applicable environmental document pursuant to CEQA for the City's actions in conveying title to the approximately 81-acre portion of the 380-acre Bayonet and Black Horse golf courses from the City to the Redevelopment Agency of the City of Seaside and for the Approval of the Project Applications; and (5) that the modifications to the mitigation measures that have been made since circulation of the RDEIR do not constitute the addition of new significant information to the FEIR within the meaning of CEQA Guidelines Section 15088.5. Based on these findings, the Recitals contained in this Resolution, and all of the evidence in the record, the City Council hereby certifies the Final Environmental Impact Report for the Project.

3. The City Council finds, based upon the Draft EIR, the responses to comments, the Final EIR, public comments, public agency comments, and the entire record before it that the Project will not cause significant environmental impacts in the areas of agricultural resources, ground shaking, historic resources, aquifer, project traffic noise, storm flooding, off-site runoff, drainage basin maintenance, storm drainage, wastewater treatment capacity, and mineral resources. The City Council further finds that the Project may create potentially significant impacts in the areas of aesthetics, air quality, biology, cultural resources (buried resources), geology (soil conditions and erosion), hazards and hazardous materials (unexploded ordnance and contaminated soil), hydrology (water quality construction and operations), land use planning, noise (short term construction and ambient noise at residences), police services, fire services, transportation, wastewater (collection capacity), solid waste disposal capacity, and water supply. With respect to all of these potentially significant impacted areas, except for transportation impacts at specified intersections and cumulative transportation impacts at specified intersections, the Final EIR identifies feasible mitigation measures for each impact that reduce the impact to a level of less than significant.

4. In response to each significant impact identified in the Final EIR, and listed in Section 3 of this Resolution, changes or alterations are hereby required in, or incorporated into the Project, which avoid or substantially lessen the impacts identified. The specific changes and alterations required, and a brief explanation of the rationale for the findings with regard to each impact, are contained in **Exhibit H** to the staff report for this item, which is attached as **Exhibit A** to this Resolution and are hereby incorporated herein by reference.

5. The mitigation measures set forth in **Exhibit B** and incorporated into this Section of the Resolution by this reference avoid or substantially lessen the potentially significant environmental impacts of the Project. The City Council recognizes that the approval of the Project will nonetheless result in certain unavoidable and potentially irreversible effects, both project-related and cumulative.

6. The Final EIR describes a reasonable range of alternatives to the Project that might fulfill the basic objectives of the Project. These alternatives include the "No Project" alternative, the Stillwell Park/Kidney Alternative, the Revised Project Design Alternative, and the Reduced Density Alternative. As set forth in **Exhibit H** to the staff report for this item and as **Exhibit A** to this Resolution, and incorporated herein by this reference, the alternatives identified in the Final EIR are not feasible because they would not achieve the basic objectives of the Project or would do so only to a much smaller degree, and therefore, leave unaddressed significant social and economic goals the Project was designed to achieve, and are thus infeasible due to social and economic considerations, and/or they are infeasible because they would not eliminate the adverse environmental impacts of the proposed Project. Accordingly, the City Council finds for the specific reasons articulated in **Exhibit A** to this Resolution, that each of the alternatives are infeasible.

7. The City Council finds that the following substantial benefits will occur as a result of the Project: (a) removal of local blight through the implementation of the Agency's Redevelopment Plan; (b) creation of construction and permanent jobs and increased property tax, sales tax and TOT revenue; (c) development of the Property in conformance with the goals,

objectives and policies of the General Plan; (d) authorization for less intensive development than would be permitted under the FORA Plan; (e) development of a first-class golf resort with the potential to attract major golf-related events and conferences to the City; (f) creation of a new and significant source of revenue to the City, the Redevelopment Agency, FORA, Monterey County and the Monterey Peninsula Unified School District; (g) construction of additional below market rate housing; (h) construction of upgraded golf course, maintenance and clubhouse facilities that will enhance the value of the City's golf courses for both individual recreational play and tournament events; (i) onsite and offsite infrastructure and public service improvements; (j) onsite remediation of existing environmental contamination; and (k) full land utilization to attract a mix of residential and visitor serving commercial uses to the area.

8. The City Council finds, after balancing the unavoidable and irreversible environmental impacts of the Project with the benefits of the Project as described in Section 7 of this Resolution, that to the extent that adverse and potentially adverse impacts of the Project have not been mitigated to a level of less than significant, that the specific economic, social, legal, environmental and technological or other benefits of the Project, as described in Section 7 and more fully articulated in **Exhibit H** to the staff report and attached as **Exhibit A** to this Resolution, outweigh the significant and irreversible impacts to the environment. Therefore, due to overriding benefits of the Project and because the alternatives identified in the EIR are not feasible, as discussed in Section 6 above, the City Council hereby finds that any unavoidable impacts of the Project, including the mitigated by unavoidable transportation impacts and cumulative transportation impacts are acceptable. This determination shall constitute a statement of overriding considerations within the meaning of CEQA and is based on the benefits of the Project identified in the Final EIR, the record of proceedings, **Exhibit A** to this Resolution, the contents of which are incorporated herein by this reference. The City Council further finds that each overriding benefit is severable from any other consideration should one or more consideration be shown or determined to be legally insufficient for any reason.

9. The City Council declares that it has been provided with and reviewed substantial evidence in the record to support the findings for project consideration incorporated herein by reference (the "Findings"), which evidence includes, but is not limited to, the Application, Notices of Preparation, Notices of Completion, Comments on the Notices of Preparation, the Reuse Plan, the Reuse EIR, the Redevelopment Plan, the Implementation Plan, the HMP, the HCP, the IA, the FEIR, the U.S. Army Fort Ord Disposal and Reuse Final EIR and Supplemental Final EIR, the FORA Master Resolution, the staff report for the Project and written and oral testimony (collectively, the "Record of Proceedings"), and hereby provides notification that the entire Record of Proceedings is on file with Joyce E. Newsome, Clerk of the City, at City Hall, 440 Harcourt Avenue, Seaside, CA 93955.

10. The City Council hereby adopts each of the mitigation measures set forth in the Final EIR and listed in **Exhibit B** of this Resolution. The City Council incorporates these mitigation measures into the Project. The City Council recognizes that Public Resources Code Section 21081.6 requires the adoption of a reporting or monitoring program designed to ensure compliance with the mitigation measures during Project implementation. The City Council finds that the Mitigation Monitoring and Reporting Program prepared for the Project, which is attached hereto as **Exhibit B** to this Resolution, is fully adequate to meet the requirements of

Exhibits to Resolution No. 05-43

The following Exhibits are hereby incorporated by reference into Resolution 05-43.

- EXHIBIT "A"** **Findings and Facts and Evidence in Support of Findings Required by CEQA; Statement of Overriding Considerations (Exhibit H to Staff Report)**
- EXHIBIT "B"** **Mitigation Monitoring and Reporting Program (Exhibit G to Staff Report)**

Public Resources Code Section 21081.6 and will ensure compliance with the mitigation measures identified in the Final EIR and listed in **Exhibit B** during Project implementation. Based on these findings, the City Council hereby approves and adopts the Mitigation Monitoring and Reporting Program attached hereto as **Exhibit B**.

11. The City Clerk shall certify to the adoption of this Resolution.

PASSED AND ADOPTED at a special joint meeting of the City Council of the City of Seaside/Redevelopment Agency of the City of Seaside on the 7th day of July 2005, by the following vote:

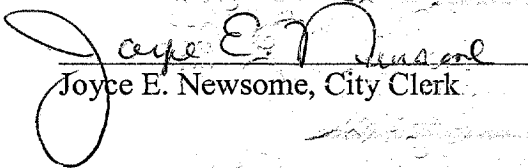
AYES:	COUNCILMEMBERS: Choates, Jordan, Mancini, Bloomer, Rubio
NOES:	COUNCILMEMBERS: None
ABSENT:	COUNCILMEMBERS: None
ABSTAIN:	COUNCILMEMBERS: None

APPROVED:



Ralph Rubio, Mayor
City of Seaside

ATTEST:



Joyce E. Newsome, City Clerk