

ATTACHMENT E1

RESOLUTION NO. 2019-9

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWPORT BEACH, CALIFORNIA, ADOPTING MITIGATED
NEGATIVE DECLARATION NO. ND2018-001
(SCH#2018081098) FOR THE BIG CANYON COASTAL
HABITAT RESTORATION AND ADAPTATION PROJECT -
PHASE 2A (PA2018-078)**

WHEREAS, Big Canyon Park is located at 1900 Back Bay Drive in the City of Newport Beach ("City") (Assessor's Parcel No. 440-092-79) and is legally described as shown in Exhibit "A";

WHEREAS, Big Canyon Park is a valuable natural resource and recreational opportunity that includes coastal scrub, riparian scrub, riparian forest, alkali-saline wetland, and freshwater emergent wetland habitats native to Southern California and worthy of continuous protection, conservation, and management efforts to preserve it;

WHEREAS, large areas of the creek and native riparian habitat of the Big Canyon Park have been overtaken by non-native invasive species;

WHEREAS, urbanization in the Big Canyon watershed has resulted in increased peak and sustained peak storm flows which have incised the channel bed and eroded channel banks in Big Canyon Creek within the Big Canyon Nature Park resulting in reduced floodplain connectivity and unstable embankments;

WHEREAS, Big Canyon Creek is listed as an impaired waterbody for selenium and a total maximum daily load ("TMDL") has been established for the creek;

WHEREAS, the 2009 Central Orange County Integrated Regional and Coastal Watershed Management Plan lists restoration of Big Canyon Nature Park as a key project for implementing restoration objectives in Upper Newport Bay;

WHEREAS, the proposed Big Canyon Coastal Habitat Restoration and Adaptation Project – Phase 2A ("Project") is in conformance with the 2014 guidelines of the Big Canyon Resource and Recreation Management Plan ("RRMP") and is also consistent with the requirements of the Natural Community Conservation Plan/Habitat Conservation Plan ("NCCP") for the Central and Coastal sub-region of Orange County in the event the City elects to incorporate the Big Canyon Nature Park into the NCCP;

WHEREAS, implementation of the Project will: (1) restore historic wetland and riparian habitat by removing non-native vegetation, restoring the area with native plantings, (2) stabilize the creek and floodplain, and (3) improve water quality in Big Canyon Creek and Newport Bay by eliminating stagnant area in Big Canyon Creek;

WHEREAS, Newport Bay Naturalists and Friends, a California nonprofit corporation, doing business as Newport Bay Conservancy ("Newport Bay Conservancy"), has received a grant from the California Ocean Protection Council to prepare construction documents for the Project;

WHEREAS, the Newport Bay Conservancy has entered into a Revocable License Agreement dated February 12, 2018 ("License Agreement"), attached hereto and incorporated herein by reference as Exhibit "B," from the City to perform design tasks and prepare the construction documents;

WHEREAS, a public meeting was held by the Parks, Beaches, and Recreation Commission on December 4, 2018, in the City Council chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Parks, Beaches, and Recreation Commission at this meeting. At this meeting, the Commission recommended City Council approval of the Project design;

WHEREAS, a public meeting was held by the City Council on January 22, 2019, in the City Council chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the NBMC. Evidence, both written and oral, was considered by the City Council at this hearing; and

WHEREAS, after thoroughly considering the mitigated negative declaration ("MND") for the Project, the public testimony, and written submissions of all interested persons desiring to be heard, the City Council finds the following facts, findings, and reasons to support adopting the MND:

1. Pursuant to the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000, *et seq.*, the CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 *et seq.*), and City Council Policy K-3, the Big Canyon Coastal Habitat Restoration and Adaption Project - Phase 2A ("Project") is defined as a project and as such subject to environmental review.
2. The City and Newport Bay Conservancy caused to be prepared an Initial Study/Mitigated Negative Declaration ("MND") in compliance with CEQA, the State CEQA Guidelines and City Council Policy K-3.
3. Notice of the availability of the draft MND was provided and the draft MND was made available for public review for a thirty (30)-day comment period beginning on September 4, 2018 and ending October 5, 2018. Notice of the Availability of the draft MND was given in accordance with CEQA, the State CEQA Guidelines, and City Council Policy K-3. Nine (9) comment letters were received during the thirty (30)-day public review period.

4. Although not required pursuant to CEQA, written responses to the nine (9) comments received were prepared. The comments and responses were considered by the City Council while considering the adoption of the MND. The comments to the MND and responses to comments do not change the determinations or represent a significant departure from the original document that would warrant recirculation of the MND.
5. The Draft MND and the Final MND (which includes the Responses to Comments, Errata, and Mitigation Monitoring and Reporting Program ("MMRP")) are attached hereto and incorporated herein as Exhibits "C," "D," and "E," respectively. The documents and all related materials, which constitute the record upon which this decision was based, are on file with the City of Newport Beach, Community Development Department, Planning Division, 100 Civic Center Drive, Bay 1B, Newport Beach, California 92660.
6. On the basis of the entire environmental review record, the Project, with mitigation measures, will have a less than significant impact upon the environment and there are no known substantial adverse effects on human beings that would be caused. Additionally, there are no long-term environmental goals that are compromised by the Project, nor cumulative impacts anticipated in connection with the Project. The mitigation measures identified by the MND and incorporated in the MMRP are feasible and will reduce potential environmental impacts to a less than significant level.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council does hereby adopt MND No. ND2018-001 (SCH#2018081098) attached as Exhibits "C" and "D," and "E" incorporated herein by reference, which together comprise the MND.

Section 2: The City Council does hereby direct the Public Works Director and the Newport Bay Conservancy to incorporate the mitigation measures contained in the MMRP included in the Final MND that is attached hereto as Exhibit "E" in the plans and specifications for the Project to be implemented.


Section 3: The recitals provided in this resolution are true and correct, constitute, in part, the findings of the City Council for the adoption of the attached MND, and are incorporated in the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The requirement for environmental review under CEQA is satisfied by the Draft MND and the Final MND (which includes the City Planning Division's Responses to Comments) that are attached hereto as Exhibits "C" and "D," respectively.

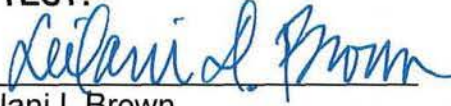
Section 6: This resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 22nd day of January, 2019.



Diane B. Dixon
Mayor


ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachments:	Exhibit A —	Legal Description
	Exhibit B —	Revocable License Agreement Between the City of Newport Beach and Newport Bay Naturalists and Friends DBA Newport Bay Conservancy
	Exhibit C —	Draft Mitigated Negative Declaration
	Exhibit D —	Final Mitigated Negative Declaration
	Exhibit E —	Mitigation Monitoring and Reporting Program