Resolution No. 2015-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 17810 FOR SUBDIVISION OF A 5.75 ACRE SITE AT 25192 COMMERCENTRE DRIVE, (APNs 610-371-02, 610-370-05) INTO 52 LOTS FOR SINGLE-FAMILY DWELLING UNITS AND FIVE LOTS FOR PRIVATE STREETS AND OPEN SPACE

WHEREAS, on September 8, 2014, EPD Solutions ("Applicant") and Meritage Homes of California, Inc. ("Developer") filed applications for approval of General Plan Amendment 9-14-4593, Zone Change 9-14-4594, Tentative Tract Map 17810 and Site Development Permit 9-14-4596 and a Development Agreement for the development of a 5.75-acre site ("Project Site"), located at 25192 Commercentre Drive with up to 52 dwelling units ("Project"); and

WHEREAS, the City and Developer have reached mutual agreement and desire to voluntarily enter into a Development Agreement to facilitate development of the Project subject to the conditions and requirements set forth therein; and

WHEREAS, while Chapter 7.05 of the Lake Forest Municipal Code requires that the Planning Commission review all tentative tract maps, Section 8.5 of the proposed Development Agreement requires the First Tentative Map for the Project to be approved by the City Council; and

WHEREAS, an Initial Study and Notice of Intent to adopt a Mitigated Negative Declaration were prepared based on the information received from the Applicant as part of the application submittal and in accordance with State CEQA Guidelines section 15071, commencing the environmental review process and preparation of a Mitigated Negative Declaration; and

WHEREAS, a Notice of Intent to adopt a Mitigated Negative Declaration was filed and a copy was circulated between September 2, 2015 and October 1, 2015; and

WHEREAS, the Mitigated Negative Declaration analyzed the impacts related to the Project as a whole, including the subdivision proposed by Tentative Tract Map 17810; and

WHEREAS, on November 12, 2015, the Planning Commission conducted a duly-noticed public hearing to consider Tentative Tract Map 17810, as well as General Plan Amendment 9-14-4593, Zone Change 9-14-4594, Site Development Permit 9-14-4596, the associated Development Agreement and the Mitigated Negative Declaration for the Project, at which hearing members of the public were afforded an opportunity to comment upon Tentative Tract Map 17810; and

WHEREAS, the Planning Commission, after carefully considering all pertinent testimony and the staff report offered in the case as presented at the public hearing adopted a resolution recommending that the City Council approve Tentative Tract Map 17810; and

WHEREAS, on December 4, 2015, the City gave public notice of the City Council public hearing on Tentative Tract Map 17707 by advertisement in a newspaper of general circulation, and on December 4, 2015 posted the public notice at City Hall and the El Toro and Foothill Ranch branches of the public library, and mailed the notice to owners of all property within 300 feet of the project boundary; and

WHEREAS, the City Council, after carefully considering all pertinent testimony and the staff report offered in the case as presented at the public hearing adopted the Mitigated Negative Declaration, and approved General Plan Amendment 9-14-4593, Zone Change 9-14-4594, Site Development Permit 9-14-4596, and the associated Development Agreement, and now wishes to approve Tentative Tract Map 17810; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council has approved and adopted a Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed project, including this Tentative Tract Map **17810**.

SECTION 2. TENTATIVE TRACT MAP FINDINGS. With regard to Tentative Tract Map 17810, the Lake Forest City Council hereby finds, based on consideration of the whole record before it, as follows:

1. The proposed map is consistent with the General Plan.

*The site has a General Plan land use designation of Light Industrial. The applicant proposes a General Plan Amendment to re-designate the property Low-Medium Density Residential. The Low-Medium Density Residential designation allows for residential development, including single-family homes, of 7 to 15 dwelling units per net acre. The Tentative Tract Map proposes 52 detached homes on 5.75 acres (*4.79 net acres) *of Low-Medium Density Residential land, resulting in a density of 10.9 dwelling units per net acre. As conditioned, the Tentative Tract Map will not take effect unless the General Plan Amendment, Zone Change, Site Development Permit and Development Agreement take effect. Accordingly, the proposed map would be consistent with the applicable General Plan Land Use designation.*

2. The design and improvement of the proposed subdivision is consistent with the General Plan.

   Upon approval of proposed General Plan Amendment 9-14-4593, the proposed project is consistent with the General Plan land use policies, including the following General Plan Policies within the Land Use Element:

   ***Land Use Policy 2.2**: Promote high quality in the design of all public and private development projects.*

   ***Land Use Policy 3.1**: Ensure that new development fits within the existing setting and is compatible with the physical characteristics of available land, surrounding land uses, and public infrastructure availability.*

   ***Land Use Policy 3.3**: Ensure that affected public agencies can provide necessary facilities and services to support the impact and intensity of development in Lake Forest and in areas adjacent to the City.*

   ***Land Use Policy 4.1**: Ensure that all development proposals within the planned community areas conform to applicable development plans and agreements.*

   The proposed Tentative Tract Map is located in an area that is characterized by a mixture of uses, including light industrial/business park development and the Shea/Baker Ranch residential neighborhood. The site includes a combination of physical features to ensure compatibility with the surrounding areas: matching of existing landscaping and walls/fences on perimeter slopes along Alton Parkway and Commercentre Drive, grade separation between the site, adjacent roadways and the adjacent industrial property, property line walls, and noise attenuation mitigation measures.

The necessary facilities and infrastructure are available to support the new development. The site is easily accessed from various roadways, includes existing utility connections for water, sewer, reclaimed water, and stormwater drainage. Furthermore, the project includes detailed development plans in compliance with development standards applicable within the proposed R2-PD zone.

3. The site is physically suitable for the proposed type of development.

   The site is able to accommodate the proposed number of lots, dwelling units, access streets, site landscaping, and open space while complying with the standards of the R2-PD zone and other applicable development regulations, such as street widths, open space, on-site parking and setbacks.

   The project site is not located in a flood zone, earthquake fault zone, high fire hazard zone or other safety risk zone. The project is accessible via existing public streets and will be served by available public utilities and infrastructure.

4. The requirements of the California Environmental Quality Act have been satisfied.

   The requirements of the California Environmental Quality Act have been satisfied in that an Initial Study and Mitigated Negative Declaration (IS/MND) were prepared for the project, including the Tentative Tract Map, and the Planning Commission has recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

5. The site is physically suitable for the proposed density of development.

   The project site will be developed at a density of 10.9 dwelling units per net acre in compliance with the General Plan Low-Medium Density Residential standard of 7-15 dwelling units per net acre. In addition, the project complies with applicable building setbacks, lot coverage standards and off-street parking requirements.

6. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat.

   The project is located in an urbanized area, adjacent to existing and approved future residential development and open space. Additionally, the

Project site was previously rough graded and has been maintained and compacted in its rough-graded condition, leaving the soil and vegetation within it highly disturbed. The Initial Study/MND prepared for the project demonstrates that the proposed project, with adopted mitigation measures, does not degrade the quality of the environment, reduce habitat for wildlife species, or endanger threatened plant or animal species.

The project will comply with the applicable mitigation measures contained in Mitigation and Monitoring Reporting Program pertaining to aesthetics, biological and cultural resources, geology, hydrology and water quality, noise and public services. As a result of those measures, all potential impacts to the environment, including fish, wildlife and habitat, will be mitigated to less than significant levels.

7. The design of the subdivision and the proposed improvements are not likely to cause serious public health problems.

   The design of the subdivision and the proposed improvements are in compliance with all required standards. The subdivision proposes to install adequate infrastructure to support proposed uses. In addition, the project, as conditioned, is in compliance with all applicable State, County, and City design, building, and other safety related laws, codes, and regulations, including, but not limited to, the California Building Code and Uniform Fire Code. Furthermore, the proposed subdivision and related development have not been designated as a hazardous or ultra-hazardous use, will not involve the generation, disposal, use, release, or transportation of a significant amount of toxic or hazardous substances, and will not create noxious or offensive odors. Therefore, it is not anticipated that the proposed subdivision will cause serious health problems.

8. The design of the subdivision and the proposed improvements will not conflict with easements of record or established by court judgment or acquired by the public at large for access through or use of property within the proposed subdivision; or, if such easements exist, that alternate easements for access or for use will be provided and these will be substantially equivalent to ones previously acquired by the public.

   The project site is not encumbered with public easements. Additionally, all public and private utility easements required to serve the project will be provided. Therefore, design of the subdivision and proposed improvements will not conflict with such easements of record.

9. The design and improvement of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations pursuant to Section 7.05.055.

   The design and improvement of the proposed subdivision has been reviewed and found to be in compliance with the City's Subdivision Ordinance and Zoning regulations, including minimum lot size and street widths. The proposed subdivision is conditioned to be effective only if the associated General Plan Amendment, Zone Change, Site Development Permit and Development Agreement take effect.

10. The subdivision is not located in a fee area or, if located in a fee area, the subdivider has met the requirements for payment of the applicable fees or the subdivision would not allow development of a project which would contribute to the need for the facility for which a fee is required.

    Per the Development Agreement and applicable City and County regulations, the Project Developer is required to pay development impact fees prior to the construction of any homes. Therefore, the subdivision would not allow the development of a project which would contribute a need for facilities for which the project has not paid.

SECTION 3. CITY COUNCIL ACTIONS. Based on the Staff Report, all written and oral comments and testimony presented to the City Council, and the aforementioned findings, the City Council hereby takes the following actions.

1. Approve Tentative Tract Map 17810 subject to the following:

   A. Subject to compliance with the Mitigation and Monitoring Reporting Program and upon satisfaction of conditions set forth in Subsection C below.

   B. The Tentative Tract Map shall not take effect unless and until General Plan Amendment 9-14-4593, Zone Change 9-14-4594 and Site Development Permit 9-14-4596, and the associated Mitigated Negative Declaration are each approved by the City Council, and the associated Development Agreement is approved by the City Council and executed by all parties thereto.

   C. Subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL
TENTATIVE TRACT MAP 17810

(Mitigation Measures from the Encanto Mitigated Negative Declaration have been incorporated into the following conditions of approval and are referenced by numbers corresponding to the mitigation measures ('MM") identified in the Mitigated Negative Declaration and related Mitigation Monitoring Plan).

GENERAL CONDITIONS

1. The Project Developer shall indemnify, protect, defend, and hold the City, and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and other such procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Community Redevelopment Law, Code of Civil Procedure Sections 1085 or 1094.5, or any other federal, state, or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that Project Developer shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the developer of any Action brought and City shall cooperate with developer in the defense of the Action. (PLNG _____)

2. Approval of Tentative Tract Map 17810 shall expire two years from the date approved by the City Council, but may be extended for the duration of the Development Agreement in accordance with section 7.8.1 of the Development Agreement and section 66452.6(a)(1) of the Government

Code. (PLNG _____)

3. Within five (5) business days of the approval of the project by the City Council, the developer shall deliver to the Development Services Department a check payable to the County Clerk, in the amount of fifty dollars ($50.00) for the County administrative filing fee, to enable the City to file the Notice of Determination required under Public Resources Code Section 21152 and 14 Cal. Code of Regulations 15075. (PLNG_____)

4. The Developer shall deliver to the Development Services Department a check payable to the Orange County Clerk Recorder in the amount of two thousand one-hundred eighty-one 25/100 ($2,181.25) to cover the fees required by Fish and Game Code Section 711.4, Public Resources Code Section 21089(b), and 14 California Code of Regulations 753.5 as well as the County Clerk's processing fee, unless the Developer receives a "no effect" finding from the California Department of Fish and Game. If the Developer fails to deliver the check and does not have the "no effect" finding required above to the Development Services Department within five business days of project approval by the City Council, the approval for the project shall be void. (PLNG_____)

5. The project shall be developed and maintained in substantial compliance with the Tentative Tract Map, and all other plan approved concurrently by the City Council and on file with the City of Lake Forest Development Services Department. Minor modification or changes to the Tentative Tract Map shall be in accordance with Chapter 7.05 of the Lake Forest Municipal Code (LFMC) and the Subdivision Map Act. Amendments to the Site Development Permit shall be subject to the provisions of LFMC Sec. 9.184.080. (PLNG _____) (PW/ENG_____)

6. The developer shall comply in all respects with all terms and conditions of the Development Agreement, as recorded by the Orange County Clerk-Recorder's Office on_____, as document number_____. (PLNG _____)

7. Approval of this application shall not be interpreted to supplant or supersede, or to render inapplicable by omission of notice of non-compliance with, any provisions of the Development Agreement for the project. (PLNG _____)

8. The Planning Division processes discretionary applications on a deposit basis. Deposit funds are provided by project applicants/developers to

cover the actual costs associated with staff time and resources utilized in processing an application. If, at any time, the cost to process the application exceeds the deposit on file, additional funds shall be deposited by the Project Applicant/Developer. A final accounting for this project will be prepared following the City Council's decision on the project and if needed, a request for additional funds will be provided to the Project Applicant/Developer within 10 business days of approval. Should additional funds be required, the Project Applicant/Developer shall submit a check or money order, payable to the City of Lake Forest, for the additional funds within 30 days, or prior to issuance of a grading permit or a final map for the project, whichever is earlier. (PLNG _____)

9. The on-site storm drain system shall be privately maintained. (PW/ENG_____)

10. During all grading and construction activities, the construction contractor shall post a clearly visible sign at the construction site boundary listing a contact name and telephone number for lodging a noise complaint. (PLNG _____)

PRIOR TO ISSUANCE OF ANY GRADING PERMIT

11. The developer shall prepare and submit a rough grading plan for the review and approval of the Director of Development Services, the Building Official, and the Director of Public Works/City Engineer showing new pads and elevations of finished grades, drainage routes, retaining walls, erosion control, slope easements, structural best management practices conforming to the approved water quality management plan, and other pertinent information. The plans shall be consistent with the Preliminary Grading Plans approved by the City Council. The developer shall also print all conditions of approval within the first four sheets of the rough grading plan. (PLNG _____) (BLDG_____) (PW/ENG_____)

12. If review of the grading plan for this property indicates significant deviation from the proposed grading illustrated on the approved tentative map, specifically with regard to slope heights, slope ratios, and pad elevations, size, and configuration, the plan shall be reviewed by the Director of Public Works/City Engineer for a finding of substantial conformance prior to the issuance of a grading permit. The Director of Public Works/City Engineer may refer the matter to the Planning Commission for a determination. Failure to achieve such a finding will require processing an amended tentative tract map. (PW/ENG _____) (PLNG _____)

13. In accordance with LFMC Section 8.30.090, the Developer shall post security for the grading permit in an amount to be determined by the City Engineer. The required amount must include items relating to hazardous conditions such as erosion and air/dust control, the cost of completing any retaining walls, provisions for landscaping as relating to slope stability, compliance with approved landscape plans, and contingency funds which must include an allowance for site maintenance. (BLDG ____) (PLNG ___)

14. All utilities serving the project shall be underground. (PW/ENG _____)

15. **Incorporation of and Compliance with the Recommendations in the Geotechnical Study.** All grading operations and construction shall be conducted in conformance with the recommendations included in the geotechnical documents prepared by GeoTek, Inc. (included in Appendix D of this Initial Study/Mitigated Negative Declaration [IS/MND]). The recommendations are found in Document C: GeoTek Response to City Review Checklist dated May 15, 2015. The specific requirements in the geotechnical documents address or include, but are not limited to, the following:

    1. Earthwork, including site preparation for areas to receive engineered fill, grading activities, and temporary excavations;
    2. Foundations, including shallow foundation design criteria, post-tensioned slab design recommendations, and foundation setbacks;
    3. Retaining and garden wall design and construction criteria, including cantilevered walls and retaining wall backfill and drainage;
    4. Soil corrosion;
    5. Imported soils;
    6. Concrete flatwork, including exterior concrete slabs, sidewalks, driveways, and concrete performance;
    7. Pavement design; and
    8. Post-construction considerations, including landscape maintenance, and planting and drainage.

    Additional site grading, specifications, and foundation plans shall be reviewed by the Project geotechnical consultant prior to construction to check for conformance with the recommendations of this report. The Project geotechnical consultant shall be present during site grading and foundation construction to observe and document proper implementation of the geotechnical recommendations. The Project Developer shall require the Project geotechnical consultant to perform at least the following duties

during construction:

a. Observe site clearing and grubbing operations for the proper removal of unsuitable materials.
b. Observe and test the bottom of removals prior to fill placement.
c. Evaluate the suitability of on-site and import materials for fill placement, and collect soil samples from laboratory testing where necessary.
d. Observe the fill for uniformity during placement, including utility trench backfill, and perform field density testing of the fill materials.
e. Observe and probe foundation excavations to confirm the suitability of bearing materials.

Grading plan review shall also be conducted by the City of Lake Forest City Engineer, or designee, prior to the start of grading to verify that requirements developed during the geotechnical design evaluation have been appropriately incorporated into the Project plans. Design, grading, and construction shall be performed in accordance with the requirements of the City Building Code and the California Building Code (CBC) applicable at the time of grading, as well as the recommendations of the Project geotechnical consultant as summarized in a final report subject to review by the City Engineer, or designee, prior to the start of grading activities. (Encanto MND MM G-1 (BLDG _____)

16. The developer shall submit a proposed truck haul plan for the review and approve of the Public Works Director/City Engineer, for the import and export of dirt, construction materials, vehicles, and equipment. The plan shall include the proposed route and hours of operation and a maintenance plan. (PW/ENG_____)

17. The developer shall submit a proposed Construction Parking Management plan for the review and approval of the Public Works Director/City Engineer and Development Services Director. The Plan shall demonstrate that sufficient area has been designated on-site for the parking of construction related vehicles in a manner that insures that surrounding properties will not be negatively impacted.(PLNG _____) (PW/ENG_____)

18. The developer shall include provisions on the grading plans that provide for the construction site to be fenced and that fences be secured and maintained for the duration of the construction. Construction fences shall include wind screens to minimize fugitive dust, as deemed necessary by the City. The configuration of construction fencing located at corners,

driveways, or intersections shall not create view obstructions of traffic or pedestrians. (PLNG _____)

19. **Compliance with the Migratory Bird Treaty Act.** In the event that Project construction or grading activities (including fuel modification) should occur between February 1 and September 15, a qualified biologist shall conduct a nesting bird survey no more than 3 days prior to commencement of construction activities to confirm the absence of nesting birds. If active nesting of birds is observed within 100 feet (ft) of the designated construction area prior to construction, the biologist shall establish suitable buffers around the active nests (e.g., as much as 500 ft for raptors and 300 ft for non-raptors [subject to the recommendations of the qualified biologist]), and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Prior to commencement of grading activities and issuance of any building permits, the Director of the City of Lake Forest Development Services, or designee, shall verify that all Project grading and construction plans include specific documentation regarding the requirements of the Migratory Bird Treaty Act (MBTA), that preconstruction surveys have been completed and the results reviewed by staff, and that the appropriate buffers (if needed) are noted on the plans and established in the field with orange snow fencing.

    In addition, during the Least Bell's vireo (vireo) breeding season (March 15 through August 31), construction noise levels shall be restricted to below 60 dBA Leq at 100 feet from areas occupied by the vireo. Twice weekly surveys for the vireo shall be conducted by the biological monitor in areas of suitable habitat within 500 feet of proposed construction activities to determine the presence of vireo nest building activities, egg incubation activities, or brood rearing activities. If vireo are present, noise monitoring shall be conducted weekly by a qualified noise specialist with at least 10 hours of field noise monitoring training. The instrument used for measuring noise shall meet ANSI S1.4-1983 and ANSI S1.4N-1985 standards for a Type 1 or Type 2 meter and shall have a calibration certificate less than one year old. The noise monitoring shall demonstrate that construction noise levels are less than 60 dBA Leq at specified monitoring locations, no less than 100 feet from the active nest(s), as determined by the biological monitor. Weekly survey reports shall be prepared during the nesting season and sent electronically to the Carlsbad Fish and Wildlife Office (CFWO) each week that vireo are detected. The biological monitor(s) shall be a trained ornithologist with at least 40 hours of supervised experience

locating vireo and mapping their locations in the field. At least 7 days prior to initiation of surveys, the names and resumes of all biologists that will be employed to survey for the vireo shall be submitted to the CFWO in writing. Proposed surveys and construction activities shall not begin until a biological monitor has been approved by the CFWO.

(Encanto MND MM B-1)(PLNG _____)

20. **Archeological Resource Mitigation Procedures.** Prior to issuance of grading permits, the Project Developer shall submit a grading plan set prepared by the engineer of record for review and approval by the City of Lake Forest (City) Engineer and Director of Development Services. The grading plan set shall include an exhibit with cross-sections that maps the depths of native soils for the entire Project site and identifies areas of the site where grading and/or other ground disturbance has the potential to disturb native soils.

    a. **Grading Native Soils.** Prior to the issuance of the first preliminary or precise grading permit, a qualified archaeologist and Native American monitor shall be retained by the Project Developer for that grading permit to provide professional archaeologist and Native American monitoring services for any construction activities that may disturb native soils. The archaeologist shall be selected from the roll of qualified archaeologists maintained by the County of Orange (County). The Native American monitor shall be selected by the Project Developer. The archaeologist and Native American monitor shall be present at the pre-grading conference to establish procedures for archaeological resource surveillance. Those procedures shall include provisions for temporarily halting or redirecting work to permit sampling, identification, and evaluation of resources deemed by the archaeologist to potentially be historical resources or unique archaeological resources, or by the Native American monitor to be tribal cultural resources under the California Environmental Quality Act (CEQA). These procedures shall be reviewed and approved by the Director of Development Services prior to issuance of the grading permit and prior to any surface disturbance on the Project site. Should any cultural or tribal cultural resources be discovered, no further grading shall occur in the area of the discovery until the Director of Development Services, or designee, is satisfied that the following treatment of the resource has occurred. In the event that a unique archeological resource or tribal cultural resource is discovered, and in accordance with Public Resources Code Section 21083.2(b)(1), (2), and (4), the resource shall

be moved and buried in an open space area of the Project site, such as slope areas, which will not be subject to further grading activity, erosion, flooding, or any other ground disturbance that has the potential to expose the resource. The on-site area to which the resource is moved shall be protected in perpetuity as permanent open space. No identification of the resource shall be made on site; however, the Project Developer shall plot the new location of the resource on a map showing latitudinal and longitudinal coordinates and provide that map to the Native American Heritage Commission (NAHC) for inclusion in the Sacred Lands File (SLF). Disposition of the resources shall be at the discretion of the City of Lake Forest, but in accordance with the foregoing.

b. **Grading Non-Native Soils.** Prior to the issuance of the first preliminary or precise grading permit, a qualified archaeologist shall be retained by the Project Developer for that grading permit to provide spot-check professional archaeologist monitoring services for any construction activities that may disturb non-native soils. (This archaeologist can be the same person hired under subdivision (a) above.) The spot-check professional archaeologist shall be on site for a maximum of 2 hours per week during these activities; however, during the first week of grading, the archaeologist shall be on site for a minimum of 3 hours to perform an overall site walkover. In the event the scope of grading work changes, or in the event of a delay in grading caused by discovery of a resource, the number of hours and duration of monitoring outlined previously shall be adjusted accordingly. In the event a unique archeological resource or tribal cultural resource is discovered, and in accordance with PRC Section 21083.2(b)(1), (2), and (4), the resource shall be moved and buried in an open space area of the Project site, such as slope areas, which will not be subject to further grading activity, erosion, flooding, or any other ground disturbance that has the potential to expose the resource. The on-site area to which the resource is moved shall be protected in perpetuity as permanent open space. No identification of the resource shall be made on site; however, the Project Developer shall plot the new location of the resource on a map showing latitudinal and longitudinal coordinates and provide that map to the NAHC for inclusion in the SLF. Disposition of the resources shall be at the discretion of the City of Lake Forest, but in accordance with the foregoing. *(Encanto MND MM C-1)*(PLNG _____)

21. **Construction General Permit.** Prior to issuance of a grading permit, the

Project Developer shall obtain coverage under the State Water Resources Control Board National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ, NPDES No. CAS000002) (Construction General Permit). The Project Developer shall provide the Waste Discharge Identification Number (WDID) to the City of Lake Forest (City) to demonstrate proof of coverage under the Construction General Permit. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented for the Project in compliance with the requirements of the Construction General Permit. The SWPPP shall identify construction Best Management Practices (BMPs) to be implemented to ensure that the potential for soil erosion and sedimentation is minimized and to control the discharge of pollutants in storm water runoff as a result of construction activities.

(Encanto MND MM WQ-1)(PW _____)

22. **Final Water Quality Management Plan.** Prior to the issuance of any grading or building permits, the Project Developer shall prepare a Final Water Quality Management Plan (WQMP). The Final WQMP shall be prepared consistent with the Orange County Municipal Separate Storm Sewer System (MS4) Permit, Drainage Area Management Plan, Model WQMP, and Technical Guidance Document. The Final WQMP shall specify BMPs to be incorporated into the design of the Project. The Project Developer shall provide the Final WQMP to the City for review and approval. *(Encanto MND MM WQ-2)*(PW _____)

23. Prior to the issuance of a grading permit, the Project Developer will produce written evidence, or other evidence deemed reasonably acceptable by the Director of Development Services, that all construction vehicles or equipment, fixed or mobile, will be equipped with properly operating and maintained mufflers. (PLNG _____)

24. **Operation of Graders and Scrapers.** Prior to issuance of a grading permit, the Director of the City of Lake Forest Development Services, or designee, shall verify that all Project grading and construction plans include specific notes prohibiting the operation of graders and scrapers for periods of 30 minutes or more in any hour when operating within 200 feet of the nearest residences to the east if those residences are built and occupied. *(Encanto MND MM N-2)*(PLNG _____)

25. The construction contractor will obtain the City's approval for its haul plan,

with the planned haul truck routes avoiding residential areas to the extent feasible. (PW/ENG _____)

PRIOR TO COMMENCMENT OF GRADING

26. All off-road construction equipment will be cleaned of potential noxious weed sources (e.g., mud and vegetation) before entry into the Project site to help ensure that noxious weeds are not introduced into the Project area. The contractor will employ whatever cleaning methods (typically with the use of a high-pressure water hose) are necessary to ensure that equipment is free of noxious weeds. Equipment will be considered free of soil, seeds, and other such debris when a visual inspection does not disclose such material. Disassembly of equipment components or specialized inspection tools is not required. Equipment washing stations will be placed in areas that afford easy containment and monitoring and that do not drain into sensitive areas. Written documentation that all equipment delivered to the initial staging is weed free shall be submitted to the Development Services Department. (PLNG _____)(PW/ENG _____)

PRIOR TO APPROVAL OF FINAL MAP

27. The developer shall construct, or enter into a Subdivision Improvement Agreement and post security in a manner meeting the approval of the Public Works Director/City Engineer guaranteeing the dedication and construction of the following public improvements applicable to this subdivision:

    a. Public street improvements including, but not limited to: pavement, curb and gutter, sidewalks, parkways streets, medians, roundabouts, cul-de-sacs, drive approaches, landscaping for parkways, slopes, and medians, street lighting, signing, striping, and ADA ramps.

    b. The following project-specific public improvements:

        i. On-site and off-site storm drain facilities, including water quality/detention basins.

        ii. Sewer, reclaimed and/or domestic water systems as required by the appropriate sewer and water districts as well as the Orange County Fire Authority when appropriate.

        iii. The installation and completion of landscaping and computerized irrigation control system on all site perimeter landscaped areas, including slopes, areas above and below retaining walls, and public parkways, as indicated on the approved landscape plan.

iv. Installation of street light poles, luminaries, conduits and cable to the satisfaction of the Public Works Director/City Engineer and the Southern California Edison Company and payment of advanced energy charges.

v. Monumentation.

Plans for improvements, including proposed and relocated utility lines, shall be prepared by a California-registered professional civil engineer and shall be prepared on 24" x 36" sheets. Plans shall be reviewed and approved by the Public Works Director/City Engineer based on the City's ordinances, standards, and policies, including, but not limited to, those design and construction standards adopted by the City or otherwise reasonably determined by the Director to be applicable to the project. Plans for signing, striping, and other traffic control devices shall be reviewed and approved by the City Traffic Engineering Manager. Water improvement plans shall be reviewed and approved by the Fire Marshal and the Irvine Ranch Water District. The water distribution system and appurtenances shall conform to the applicable laws and adopted regulations enforced by the Orange County Health Department. Domestic water, sewer and reclaimed water improvement plans shall be reviewed and approved by the Irvine Ranch Water District. Encroachment permits are required for any work within the City's right-of-way. (PW/ENG _____)

28. Developer shall provide to the Public Works Department for review a preliminary Title Report no older than 60 days from the final tract map submittal date. The owner's name in the report shall match the name under the Owner's Certificate section of the final map. (PW/ENG _____)

29. Any final map requested by the developer shall have completed, or provisions for completion of, any on- and off-site infrastructure, including a paved access point developed to City standards, wet and dry utility connections, perimeter slopes and landscaping, and storm drainage, serving the area to the satisfaction of the Public Works Director/City Engineer and the Director of Development Services. (PW/ENG _____)

30. The developer shall submit a recordable instrument providing for reciprocal access easements between and among each Lot via existing or future private drives, as deemed necessary by the City. This instrument shall be submitted by the developer to the City of Lake Forest for review and approval of the City Attorney, Director of Development Services and the Director of Public Works/City Engineer. The instrument shall be approved if it is appropriate recordable form, and adequately provides for

reciprocal access in a manner consistent with the City's ordinances, standards, and policies, including, but not limited, to those public design and construction standards adopted by the City or otherwise reasonably determined by the Directors to be applicable to the project.

(PW/ENG _____) (PLNG _____)

31. The developer shall submit to the Development Services Department for review and approval by the City Attorney, Director of Development Services and the Director of Public Works/City Engineer a copy of the Covenants, Conditions and Restrictions (CC&Rs) for this project. The CC&Rs shall include, but are not limited to, the following:

    a. Creation of a property owner's association for the purpose of assuming maintenance responsibility.

    b. A provision ensuring that residential parking garages are permanently and continually kept available for the parking of vehicles belonging to the occupants of the attached residence, including parking of only operable vehicles and a provision whereby the HOA may conduct garage inspections.

    c. The HOA shall maintain a minimum of 31 uncovered spaces for resident use and 11 spaces for guest use, free of charge for the life of the project.

    d. Long-term (72 or more continuous hours) parking or vehicle storage in on-site HOA parking spaces shall be prohibited. If necessary, as determined by and upon notice from the City, the HOA shall hire a patrol company to monitor and enforce this restriction.

    e. Identify the property owners association as responsible and liable for the maintenance and repair of all common area improvements including but not limited to: retaining walls, non-retaining walls, perimeter slopes, landscaping, irrigation and drainage improvements, water quality measures, private streets, guest parking areas, walkways, signage, recreation area and other community amenities.

    f. Maintenance and replacement of landscape material for the life of the project shall be the responsibility of the Association.

    g. A provision ensuring that residential parking garages are permanently and continually kept available for the parking of vehicles belonging to the occupants of the attached residence, including parking of only operable vehicles and a provision whereby the HOA may conduct garage inspections.

h. Identify the mechanism for funding all necessary (anticipated and unanticipated) maintenance and repairs.

i. Copies of all applicable final Water Quality Management Plans.

j. Provisions which prohibit obstructions such as speed bumps/humps, control gates or other modifications within said easement or access road unless prior approval of the Fire Chief and the City is granted. Please contact the OCFA at (714) 573-6100 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access."

k. A provision which requires that the HOA maintain common area landscaping in general conformance with the approved landscape plan, including vision clearance for vehicular and pedestrian safety at street intersections.

l. Rules and regulations regarding the timing and location of trash receptacles on trash collection day to minimize the time during which parking spaces are blocked by trash cans.

m. Any pool and recreation area shall be maintained as private open space for the exclusive use of owners and guests. The facilities may not be utilized by outside entities for parties, classes, etc.

n. A provision requiring the HOA to administer, and all residents and guests to adhere to, the Parking Management Plan approved by the City Council.

o. **Transfer of Responsibility for Best Management Practices.** Prior to recordation of the Final Covenants, Conditions, and Restrictions (CC&Rs) for the development, the City Director of Development Services, or designee, shall confirm that the duty to operate and perform maintenance on BMPs on the property is stated as an express obligation of the homeowner's association (HOA) in the document. The CC&Rs shall further state that the HOA's Board of Directors shall submit a formal notice of transfer to the City at any time responsibility for operation and maintenance of the BMPs is transferred (e.g., from Meritage Homes Corporation to the HOA).
(Encanto MND MM WQ-4)(PW _____)

p. **Best Management Practices.** During operation, the Homeowner's Association (HOA) shall verify BMP implementation and maintenance through inspection, self-certification, survey, or other equally effective measure. The certification shall verify, at a minimum, the inspection and maintenance of all structural BMPs, including inspection and

required maintenance in the late summer/early fall (prior to the start of the rainy season). The HOA shall retain, and make available to the City upon request, operations, inspections, and maintenance records of the BMPs for at least 5 years after the recorded inspection date. In addition, the HOA shall ensure that long-term funding for BMP maintenance is available. (Encanto MND MM WQ-3)(PW _____)

q. HOA Turn-over: Prior to Home Owner Association (HOA) maintenance acceptance from the developer, an HOA turn-over meeting/inspection shall be arranged for the Fire Inspector and the following representatives: landscape design professional, installing landscape contractor, HOA management representative, HOA landscape maintenance contractor. The fuel modification areas shall be maintained as originally installed and approved. A copy of the approved plans must be provided to the HOA representatives at this time. Landscape professionals must convey ongoing maintenance requirements to HOA representatives. The CC&R language for maintenance must also be provided and approved by the OCFA. (OCFA _____)

r. Fuel Modification Maintenance: The property owner is responsible for all maintenance of the fuel modification indefinitely in accordance with the approved fuel modification plans. The property owner shall retain all approved fuel modification plans. As property is transferred, property owners shall disclose the location and regulations of fuel modification zone to the new property owners. (OCFA ___)(Attorney____)(OCFA____)(PW/ENG ____)(PLNG ____)

32. The Project Developer shall provide the Planning Division an ArcGIS digital data file of the Final Map with each parcel as a separate polygon or feature class. The ArcGIS digital file may not contain annotation, labels, or measurement lines. The ArcGIS digital file may either be a Shapefile, Personal Geodatabase or a File Geodatabase. A request for any other ArcGIS compatible file format shall be subject to the discretion of the Director of Development Services. The ArcGIS digital map file shall be in accordance with the following criteria:

a) Digital data shall be georeferenced to the California coordinate system – STATEPLANE Zone 6 (Lambert Conformal Conic projection) and NAD 83 datum.

b) Digital data shall have units in US FEET.

c) The database for the ArcGIS digital file shall include either the tract and lot numbers for each parcel or the Assessor's Parcel Number (if it has been assigned) and the lot size. (PLNG _____)

33. The installation of sidewalk along Alton Parkway shall be required beginning from the existing sidewalk at Commercentre Drive/Alton Parkway to the City limit with the City of Irvine. The required sidewalk shall be included on the improvement plans for construction. The width of the sidewalk shall be from back of curb to the right-of-way line (nine feet). (PW ____)

PRIOR TO RELEASE OF SECURITY

34. Prior to release of the grading bond, the developer shall provide a certificate, from a Registered Civil Engineer, certifying that the finished grading has been completed in accordance with the City approved grading plan. (BLDG _____)

35. Prior to the release of subdivision improvement bond, the developer shall submit one (1) set of computerized data, which is compatible with the City ARC/VIEW system and in the file types of either Shapefile (.shp), File Geodatabase (.gdb),or Personal Geodatabase (.mdb), of "as builts" of landscape and grading improvements, and in a manner acceptable to, the City Engineer. When requested by the City Engineer, the developer shall submit one (1) set of computerized data of computer generated structural analysis and calculations. (PLNG _____) (PW/ENG _____)

36. Prior to the release of subdivision improvement bond, the developer shall demonstrate completion of all subdivision improvements associated with that bond. (PW/ENG _____)

PRIOR TO THE ISSUANCE OF PRECISE GRADING PERMITS

37. The developer shall submit proposed addresses to the City, for approval and distribution to the U.S. Postal Service and other agencies, for the area of the precise grading permit. (PLNG _____) (BLDG _____)

38. A precise fuel modification plan shall be approved of OCFA. (OCFA ____)

39. **Comprehensive Lighting Plan.** The Project Developer shall prepare a comprehensive lighting plan for review and approval by the City of Lake Forest (City) Director of Development Services or designee. The lighting plan shall be prepared by a qualified engineer and shall comply with applicable standards of the City Municipal Code. The lighting plan shall

address all aspects of lighting, including, but not limited to, infrastructure and safety. The lighting plan shall include the following in conjunction with other measures as determined necessary by the illumination engineer:

a. All Project lighting shall be hooded or shielded to focus the light downward and prevent light spillage onto adjacent properties.

b. All lights shall be designed and located so that direct light rays are confined to the premises.

c. Parking area lighting shall be Illuminating Engineering Society "Full Cut Off" designated or "fully shielded" fixtures so that no light is emitted above the lowest light-emitting part of the fixture.

d. Light levels at the property line shall not exceed 0.1 footcandle (fc) adjacent to business properties.

e. Light standards shall not exceed 20 feet in height.

The Lighting Plan shall also include a *photometric survey. The photometric survey shall demonstrate that lighting values do not exceed 0.1 fc adjacent to business properties and that no direct rays shine onto public streets or adjacent sites.* *(Encanto MND MM A-1)*(PLNG _____)

PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS

40. The developer shall demonstrate that plans are in substantial compliance with all conceptual plans approved by the City Council. (PLNG _____)

41. The developer shall submit a soils report pertaining to building pads for review and approval of the Building Official. (BLDG _____)

42. Prior to the issuance of a building permit, the developer shall submit a letter of certification to the Director of Development Services and City Engineer from the project civil engineer certifying that all improvements have been constructed in accordance with the approved grading plans. Determination of consistency shall be subject to the review and approval of the Director of Development Services and City Engineer. (PW/ENG _____) (PLNG _____)

43. The developer shall submit construction details for any access gate to the Fire Chief for review and approval. The Fire Chief will approve the construction details if the Chief reasonably determines that the construction details are in compliance with the Uniform Fire Code and such other Federal, State, and Local laws, regulations, ordinances, standards, and policies as are applicable. (PLNG _____)

44. The developer shall submit a landscape and irrigation construction plan prepared by a licensed landscape architect to the Director of Development Services for review and approval. The plans shall include the location of the retaining walls for reference. The plan shall be consistent with the conceptual landscape plans approved by the City Council. The use of invasive exotic plants (i.e., those plant species rated as "High" or "Moderate" in the Cal-IPC's Invasive Plant Inventory) shall be prohibited. (PLNG _____)

45. The developer shall timely pay fees associated with the Development Agreement. (PLNG_____) (BLDG____)

46. The developer shall prepare a Buyer's Notice and Disclosure statement for all future buyers and/or residents regarding the nearby industrial uses and the general characteristics associated with these uses, including lights, noise, traffic, and/or parking. The disclosure shall be reviewed by the Director of Development Services and the City Attorney and include a site exhibit. The Buyer's Notice and Disclosure statement shall be recorded onto each saleable lot for the property. (PLNG _____)

47. **School Fees.** Prior to issuance of any building permits, the Project Developer shall provide proof to the Development Services Director, or designee, that payment of fees to the Saddleback Valley Unified School District (SVUSD) have been made in accordance with the Development Agreement between the City of Lake Forest, a California Municipal Corporation, and Meritage Homes of California, Inc. *(Encanto MND MM PS-2)* (BLDG _____)

48. **Park Fees.** The Project Developer shall provide proof to the Development Services Director, or designee, that payment of park fees to the City of Lake Forest have been made in accordance with the Development Agreement between the City of Lake Forest, a California Municipal Corporation, and Meritage Homes of California, Inc. *(Encanto MND MM PS-3)*(PLNG _____)

49. The Project Developer shall revise striping on Commercentre Drive to accommodate access to the site. The Project Developer shall submit a signing and striping plan, prepared by a California licensed civil engineer, showing signing and striping revisions on Commercentre Drive to accommodate access to the site. The Project Developer's contractor shall complete this work prior to the opening of any models to the public. (PW _____)

50. A fire sprinkler system plan (Service Code PR400) shall be submitted to, reviewed and approved by OCFA. (OCFA _____)

51. FHSZ: All maps, fuel modification plans, fire master/site plan, and architectural plans submitted for this project shall include a note stating "Project is located in a Fire Hazard Severity Zone or Wildland-Urban Interface area and is subject to the special construction requirements of CBC Chapter 7A. (OCFA _____)

52. Lumber-drop Inspection: After installation of required fire access roadways and hydrants, the Project Developer shall receive clearance from the OCFA prior to bringing combustible building materials on-site. Call OCFA Inspection Scheduling at 714-573-6150 with the Service Request number of the approved fire master plan at least two days in advance to schedule the lumber drop inspection. (OCFA _____)

53. Vegetation Clearance Inspection/Release: The developer/builder shall implement those portions of the approved fuel modification plan determined to be necessary by the OCFA and a confirmation of proper vegetation clearance shall be issued by the OCFA to the local building department prior to issuance of either building permits or bringing lumber or other combustible materials into the area, whichever comes first. Removal of undesirable species may meet this requirement or a separation of combustible vegetation for a minimum distance of 100 feet from the location of the structure and lumber stock-pile may be acceptable. Call OCFA Inspection Scheduling at 714-573-6150 with the Service Request number of the approved fuel modification plan at least two days in advance to schedule the vegetation clearance inspection. (OCFA _____)

54. A Sub-Area Master Plan (SAMP) service feasibility study for the project shall be prepared and approved by IRWD. (PLNG _____)

55. **Secured Fire Protection Agreement.** The designated site developer shall enter into a Secured Fire Protection Agreement with the Orange County Fire Authority (OCFA). The Secured Fire Protection Agreement shall specify the developer's pro-rata fair-share funding of capital improvements necessary to establish adequate fire protection facilities and equipment, and/or personnel. Evidence of an OCFA-approved agreement shall be submitted to City of Lake Forest Director of Development Services, or designee. *(Encanto MND MM PS-1)*(OCFA _____)

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

56. **Final Acoustical Report.** Prior to the issuance of any certificates of occupancy for residences adjacent to any noise generating roadway (Lots 1 through 17), the Project Developer shall submit a final acoustical report to the City of Lake Forest Director of Development Services, or designee, that demonstrates that the interior noise levels in habitable rooms shall not exceed 45 A-weighted decibels (dBA) Community Noise Equivalent Level (CNEL), as defined by Title 24, Part 2, of the California Building Code. If necessary, the Project Developer shall provide structural components with higher STC ratings to ensure that the 45 dB CNEL threshold is met.
(Encanto MND MM WQ-3) (PLNG _____)

57. Fuel Modification Inspection for Occupancy: Prior to issuance of temporary or final certificate of occupancy, the fuel modification zones adjacent to structures must be installed, irrigated, and inspected. This includes physical installation of features identified in the approved precise fuel modification plan (including, but not limited to, plant establishment, thinning, irrigation, zone markers, access easements, etc.). A written disclosure may be requested by the OCFA Inspector indicating that the homeowner is aware of the fuel modification zone on their land and that they are aware of the associated restrictions of the zone. Copies of buyer or builder signed emergency and maintenance access easements shall be presented upon occupancy final. (OCFA _____)

PRIOR TO INSTALLATION OF ANY SITE PERIMETER GLASS FENCING

58. The developer shall submit a Wall and Fencing Plan to the Development Services Department for review and approval. The Wall and Fencing Plan shall specify, and include details for, the use of a permanent bird strike avoidance treatment consisting of either window film (CollidEscape Clear or equivalent) or UV (ultraviolet) patterned glass (or equivalent) on all perimeter glass fencing. The Wall and Fence Plan shall include documentation addressing the bird strike avoidance effectiveness of the proposed treatment. (PLNG _____)

SECTION 4. EXECUTION OF RESOLUTION. The Mayor shall sign this Resolution and the City Clerk shall attest and certify to the passage and adoption thereof.

PASSED AND ADOPTED this 15th day of December, 2015, by the following vote, to wit:

SCOTT VOIGTS
MAYOR

ATTEST:

STEPHANIE D. SMITH, MMC
CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS .
CITY OF LAKE FOREST)

I, Stephanie D. Smith, City Clerk of the City of Lake Forest, do hereby certify that the foregoing Resolution No. 2015-57 was duly passed and adopted at a regular meeting of the City Council on the 15th day of December, 2015, by the following vote, to wit:

AYES: COUNCIL MEMBERS: HAMILTON, ROBINSON, VOIGTS
NOES: COUNCIL MEMBERS: GARDNER, NICK
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE

STEPHANIE D. SMITH, MMC
CITY CLERK