

Resolution No. 2009-50

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA,
CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE MARINA
CENTER PROJECT AND ADOPTING WATER SUPPLY ASSESSMENT**

WHEREAS, on March 6, 2006, CUE VI, LLC applied to the City of Eureka for entitlements to develop the Marina Center Project ("Project"), a mixed-use development on a 43-acre brownfield site in Eureka, located on all or portions of APNs 001-014-002; 003-021-009; 003-031-003; 003-031-008; 003-031-012; 003-031-013; 003-041-005; 003-041-006; 003-041-007; and 003-051-001;

WHEREAS, the Project is proposed to occur in phases, and Phase 1 is proposed to include interim remediation of contamination occurring from past uses of the site, as well as construction of an 11.89-acre wetland reserve surrounding the remnant of Clark Slough, all on APNs 001-014-002, 003-021-009, 003-031-008, 003-041-005, 003-041-006, 003-041-007, and 003-051-001. Subsequent phases would include a mixed-use development containing retail, office, restaurant, museum, light industrial and multi-family residential uses;

WHEREAS, the City determined that the Marina Center Project is a "Project" under the California Environmental Quality Act ("CEQA") and that an Environmental Impact Report ("EIR") would be prepared to discuss and evaluate the Project's environmental effects;

WHEREAS, the City issued a Notice of Preparation ("NOP") for the Project EIR on April 6, 2006, and held two scoping meetings on April 13, 2006, to discuss and receive comment on the scope, focus, and content of the EIR;

WHEREAS, on November 21, 2008, following the NOP and scoping meetings, the City prepared a Draft EIR, which addressed all phases of the Project, including the Phase 1 site remediation and wetland reserve;

WHEREAS, upon completion of the Draft EIR and in compliance with CEQA, the City issued a Notice of Availability ("NOA") on the Draft EIR, State Clearinghouse Number 2006042024, and the 62 day public and agency comment period for the Draft EIR began on December 1, 2008 and ended on January 31, 2009, during which public and agency comments were received;

WHEREAS, the City of Eureka would be the supplier of water to the Marina Center project, and as required by the Water Code the City caused to be prepared a water supply assessment for the Marina Center project. The assessment determined that the projected water supplies will be sufficient to satisfy the demands of the Project. The analysis from the assessment was incorporated into the Draft EIR, Chapter IV.Q (Utilities and Service Systems), and the water supply assessment was included as Appendix R in the Draft EIR;

WHEREAS, by adopting of the RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA, CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE MARINA CENTER PROJECT AND ADOPTING WATER SUPPLY ASSESSMENT, the City makes the determination that water supplies are acceptable as to quality, quantity, and reliability; that based on the entire record the projected water supplies will be sufficient to satisfy the demands of the Project in addition to existing and planned future uses; that the SB 610 Water Supply Assessment prepared by SHN Consulting Engineers & Geologists, Inc. was included in the EIR for the Marina Center Project in Chapter IV.Q (Utilities and Service Systems) and as Appendix R; and, was prepared in accordance with the California Water Code and Public Resources Code;

WHEREAS, the City prepared a Final EIR that includes, but is not limited to, the Draft EIR, technical appendices accompanying the Draft EIR, the comments and recommendations received on the Draft EIR, the responses of the City to the comments and recommendations received in the review and consultation process, and the Mitigation Monitoring and Reporting Program ("MMRP") for all phases of the Marina Center Project;

WHEREAS, on October 6, 2009, the City provided proper public notice of completion of the Final EIR and, consistent with Public Resources Code section 20192.5 and CEQA Guidelines sections 15088(b) and 15089(b) posted the Final EIR including its technical appendices for public review on the City's website, provided copies to all County and higher education libraries for public review, and provided copies to those public agencies that commented on the Draft EIR;

WHEREAS, the City Council of the City of Eureka received a report on the Final EIR from city staff and ESA, the consulting firm that prepared the EIR, and received public input on the Final EIR on October 6, 2009;

WHEREAS, city staff held two Town Hall meetings on the evenings of October 13 and October 15, 2009 for the purpose of answering questions from the public about the Final EIR;

WHEREAS, the City Council of the City of Eureka received public input on the Final EIR at its October 20, 2009 and at its October 27, 2009 meeting;

WHEREAS, comments on the FEIR by Caltrans and the Blue Lake Rancheria have resulted in modification to the mitigation measures as follows (new language is underline, deleted language has ~~strikethrough~~):

Mitigation Measure O-1b: Obtain an encroachment permit from Caltrans for ~~and complete the following~~ modifications at the intersection of Broadway and Wabash Avenue/Fairfield Street: which shall include approved traffic control measures/devices to prohibit northbound access to Wabash Avenue and Broadway from Fairfield Street. Signal phasing shall be adjusted to eliminate this movement.

1. ~~Close northbound Fairfield Street access to Wabash Avenue and Broadway approximately 40 feet south of the intersection, and post signs on northbound Fairfield at Del Norte advising motorists that traffic is "LOCAL ACCESS ONLY — NO ACCESS TO BROADWAY OR WABASH AVENUE".~~
2. ~~Closure should be accomplished by extending the east curb of Fairfield to the street centerline, and posting a "DO NOT ENTER" sign at the closure. Modify the Broadway and Wabash signal to account for the elimination of northbound Fairfield access.~~

Mitigation Measure E-2b(iv): If archaeological materials are discovered and construction activities are halted, those construction activities may resume immediately upon a written determination from the City of Eureka that the archaeological material is not significant or unique or a treatment or protection plan is prepared and initiated the field portion adequately completed.

WHEREAS, if and when CUE VI, LLC later seeks entitlements for subsequent phases of the Marina Center Project, a separate set of findings and an MMRP applicable to those phases, including any statement of overriding considerations that may be necessary for impacts associated with those later phases that cannot be mitigated to a level of less than significant, would be considered for adoption by the City at that time.

NOW, THEREFORE BE IT RESOLVED, that pursuant to CEQA Guidelines section 15090 the City Council of the City of Eureka certifies the Final EIR for the Marina Center Project as adequate and complete by making the following findings:

1. The Final EIR has been completed in compliance with CEQA;
2. The Final EIR was presented to the City Council, the decision making body of the lead agency, and the City Council reviewed and considered the information contained in the Final EIR;
3. The Final EIR reflects the City's independent judgment and analysis;
4. No significant new information has been added to the EIR since the City of Eureka provided public notice of the Draft EIR, and therefore recirculation of the EIR is not required under section 21092.1 of the Public Resources Code or section 15088.5(a) of the CEQA Guidelines.

BE IT FURTHER RESOLVED that the City Council finds and determines that the SB 610 Water Supply Assessment prepared by SHN Consulting Engineers & Geologists, Inc. was included in the EIR for the Marina Center Project as Appendix R and in Chapter IV.Q (Utilities and Service Systems) and was prepared in accordance with the California Water Code and Public Resources Code. The City Council hereby adopts the SB 610 Water Supply Assessment and, based on substantial evidence in the record as a whole, finds and determines that the total projected water supplies of the City will meet the projected water demand associated with the Project in addition to existing and planned future uses in normal, single dry, and multiple dry years.

BE IT FURTHER RESOLVED that the documents and material constituting the record of this proceeding are located at the City of Eureka, 531 K Street, Eureka, California 95501 and the custodian of said records is the Clerk of the City of Eureka;

BE IT FURTHER RESOLVED that prior to construction of Phase 1, CUE VI, LLC must obtain approval from the City of the submitted Coastal Development Permit (Case No. CDP-09-0004), a discretionary permit; and, CUE VI, LLC must obtain approval of a Grading Permit and an Erosion Control Permit, ministerial permits, from the City Building Department;

BE IT FURTHER RESOLVED that certification of the Final EIR does not vest any rights or entitlements to the property owner for construction of the Marina Center project that are not otherwise due the property owner under law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka, County of Humboldt, State of California, on the 27th day of October 2009, by the following vote:

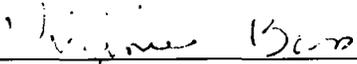
AYES: COUNCIL MEMBERS: LEONARD, JAGER, JONES

NOES: COUNCIL MEMBERS: GLASS, ATKINS

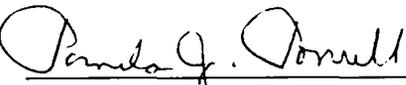
ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

ATTEST:



Virginia Bass
Mayor



Pamela J. Powell
City Clerk

APPROVED AS TO ADMINISTRATION:

APPROVED AS TO FORM:



David W. Tyson
City Manager



Sheryl Schaffner
City Attorney