RESOLUTION NO. 3238-15

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR ADOPTING THE MITIGATED NEGATIVE DECLARATION AND ASSOCIATED MITIGATION MONITORING PLAN FOR THE VICTORIA OAKS SUBDIVISON (FILE NO. GPA/ZC/MJS/UP 05-28)

WHEREAS, the Town of Windsor Town Council considered a request from Niniv Tamimi requesting a General Plan Amendment, Zone Change, Subdivision, Use Permit, and Design Review for an 89 lot single-family residential subdivision known as Victoria Oaks (previously Hembree Village). The project consists of three parcels located on Hembree Lane for a total of 17+\- acres. A General Plan Amendment is requested to change the existing land use designation from High Density Residential (HDR 12-16 units/acre) to Village Residential ("VR" 5-8 units/acre) and the Zoning to "PD" Planned Development. Current General Plan: High Density Residential 12-16du/ac Special Area G; Current Zoning: "HDR" High Density Residential12-16 du/ac. The property is located at 6808, 6816 and 6842 Hembree Lane, Windsor, CA, 95492; APN: 163-130-030, 031, & 032; and

WHEREAS, pursuant to Public Resources Code Section 21080.1 and Section 15063 of the California Environmental Quality Act ("CEQA")Guidelines (Title14, California Code of Regulations), an Initial Study was prepared to determine whether there are potentially significant effects on the environment peculiar to the proposed project; and

WHEREAS, based on information contained in the Initial Study included in the project file that any potential significant effects of the project could be avoided or reduced to less than significant with the addition of mitigation measures, a Mitigated Negative Declaration attached as Exhibit "A" was prepared for the proposed project and was circulated for public review from April 9, 2015 to May 8, 2015. The Town received no comments from the public. The Mitigated Negative Declaration and supporting Initial Study contained in Exhibit "A" are incorporated herein by reference and available for review at the Windsor Town Hall during normal business hours; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Section 15074 all documents and files which constitute the record of all proceedings upon which the decisions associated with the project are on file in the Community Development Department of the Town of Windsor at 9291 Old Redwood Hwy, Building 400, Windsor, CA 95492; and

WHEREAS, a part of the Mitigated Negative Declaration consists of a Mitigation Monitoring Plan, attached hereto as Exhibit "A" and incorporated herein by reference, consistent with the requirements of the Public Resources Code 21081.6, which lists all of the mitigation measures, specified the appropriate responsible party for implementing each mitigation measure and approximate time frames for implementing of each mitigation measure; and

WHEREAS, the Town Council finds that, based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant environmental effects resulting from this project, provided that the identified mitigation measures are incorporated into the project. The Mitigated Negative Declaration has been completed in compliance with CEQA State and Town Guidelines and the information contained therein has been duly reviewed and considered.

WHEREAS, by Resolution No. 625-15, the Planning Commission recommended adoption of the Mitigated Negative Declaration for the Victoria Oaks Subdivision; and

WHEREAS, in accordance with the provisions of law, the Town Council did conduct a duly noticed public hearing October 7, 2015 on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Town Council considered all written and oral testimony submitted at the public hearings; and

WHEREAS, the Town Council makes the following findings relative to this project:

1. The Initial Study/Mitigated Negative Declaration have been properly prepared and circulated for public review in accordance with CEQA and local guidelines.

2. The Town Council has duly reviewed the Initial Study/Mitigated Negative Declaration and considered the document and all comments thereon before making a decision on the project.

3. On the basis of the whole record before it, including the Initial Study/Mitigated Negative Declaration, and comments received thereon, the Town Council finds that there is no substantial evidence that the Victoria Oaks subdivision project will have a significant effect on the environment because project related impacts will be reduced to less than significant level, provided that the mitigation measures identified in the Initial Study and Mitigation Monitoring plan are incorporated into the project approval.

4. The Initial Study/Mitigated Negative Declaration reflects the Town's independent judgment and analysis of the potential environmental effects of the project.

5. The proposed project has been processed in accordance with the applicable provisions of CEQA. All noticing and review periods required by CEQA and the Town of Windsor's CEQA guidelines have been satisfied.

NOW, THEREFORE, BE IT RESOLVED that the Town of Windsor Town Council, based on the above findings, which are true and correct and made a part of this Resolution, hereby adopts the Mitigated Negative Declaration and Associated Mitigation Monitoring Plan for the Victoria Oaks Subdivision.

PASSED, APPROVED, AND ADOPTED this 7th day of October 2015, by the following vote:

AYES: **COUNCILMEMBERS FOPPOLI, FUDGE, AND MAYOR OKREPKIE**
NOES: **COUNCILMEMBER SALMON**
ABSTAIN: **NONE**
ABSENT: **VICE MAYOR MILLAN**

BRUCE OKREPKIE, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK

Attachment:
Exhibit "A" – Mitigated Negative Declaration and Mitigation Monitoring Plan

MITIGATION MONITORING PLAN
Victoria Oaks (aka Hembree Village)
Exhibit "A" Resolution No.

MITIGATION MEASURE	RESPONSIBLE PARTY	TIME FRAME	COMPLETION DATE
Mitigation Measure # 1: The draft Delineation of Waters of the United States was prepared by Gallaway Enterprises, dated August 2014. Prior to any discharge or fill material authorization under a Nationwide or Individual permit shall be obtained. Prior to any activities that would obstruct or alter the creek flow a streambed alteration permit may be required. A formal delineation for jurisdictional determination by the Corp is required to determine if regulatory permits, mitigation, and compensation for any loss of wetland and vernal pool habitat is required. **Monitoring Plan:** Project conditions of approval will require proof of the Corps jurisdictional determination. A copy of the Corp determination shall be submitted and proof of any purchase of required mitigation credits in an approved mitigation bank and evidence of compliance with all resource agency permitting requirements, prior to issuance of a grading and/or ground disturbing permit.	Planning	Prior to Issuance of any ground disturbing permits.	
Mitigation Measure # 2: All direct impacts to suitable habitat will be mitigated for at a USFWS approved mitigation bank. To compensate for .24 acres of direct impacts to suitable habitat Burke's Goldfields, mitigation credits shall be purchase at an approved mitigation bank with ratios for suite habitat which includes purchasing occupied or established habitat credit at 1:1 ratios and established habitat credit at 0.5:1 ratio. To compensate for .24 acres of direct impacts to suitable habitat for Sonoma sunshine mitigate ratios for suitable habitant includes purchase occupied or established habitat credit at a 1:1 ratio and established habitat credit at a 0.5:1 ratio. **Monitoring Plan:** Project conditions of approval will require proof of purchase of mitigation credits at a USFWS-approved mitigation bank. The currently approved mitigation bank by the USFWS with suitable Burke's goldfields and Sonoma sunshine credits available, as required for the project, are the Alton North and Alton South Conservation Banks. All mitigation credits will be purchased at one of these banks or other USFWS approved bank, prior to improvement plan signature and/or issuance of a grading permit and/or ground disturbing permit.	Planning	Prior to Issuance of Building Permit/Grading Plans	

EXHIBIT "A"

EXHIBIT A

MITIGATION MEASURE	RESPONSIBLE PARTY	TIME FRAME	Page 2 of 5 COMPLETION DATE
Mitigation Measure # 3: The following summarized mitigation measures should be followed in order to avoid or minimize impacts to bats that may roost in and around the outside of existing structures. Preparation of a pre-construction bat survey(s) by a qualified biologist within five weeks of construction activities that involve removal of potential roosts on structures (e.g. rafters, eaves, and porches of structures). The qualified biologist will inspect all potential roosting structures with the most effective methodology. If a bat roost is found within an area where structures are to remove or within the 100 foot buffer area around where structures are to be removed, during the bat maternity season (April-August), the structure will be marked and construction within 100 feet from the roosting structure will be delayed until a qualified biologist has determined that the young are flying. If a marked roosting structure is to be removed, removal will be delayed until a qualified biologist has that that all young are flying and/or the roost is determined to be unoccupied. If a bat roost is found within or on structures that are to be removed outside the bat maternity season, the structure will be marked and construction within 100 feet will be delayed until a qualified biological can perform exclusion activities and/or the structure is determined to be unoccupied. Prior to performing bat exclusion activities a qualified biologist will prepare an exclusion plan and obtain CDFW approval. **Monitoring Plan:** Project conditions shall include requirement to conduct and submit a preconstruction survey prior to the start of grading/and or construction. Mitigation shall be consistent with the Project Mitigation identified in the Biological Resource Assessment, Aquatic and Terrestrial Wildlife, and Botanical Resources, prepared by Gallaway Enterprises, dated November 2014.	Planning/Building	Building Permit	

MITIGATION MEASURE	RESPONSIBLE PARTY	TIME FRAME	Page 3 of 5 COMPLETION DATE
Mitigation Measure # 4: The following summarized mitigation measures should be followed in order to avoid or minimize impacts to migratory birds and raptors. A qualified biologist shall conduct a survey for birds protected by the MBTA and CFGC seven (7) days prior to start of construction activities, map all nests located within 250 feet of the construction areas, develop a buffer zone around active nests. Prohibit construction within the buffer zones until the young have fledged or the nest fails. Nests shall be monitored at least twice a week and a report submitted to the Town monthly. Conduct an additional migratory bird and raptor survey if vegetation removal stops for more than 15 days. The survey shall be conducted within seven (7) days prior to continuation of construction activities. **Monitoring Plan:** Project conditions shall include the requirement to conduct and submit a preconstruction survey prior to the start of grading/and or construction. Mitigation shall be consistent with the Project Mitigation identified in the Biological Resource Assessment, Aquatic and Terrestrial Wildlife, and Botanical Resources, prepared by Gallaway Enterprises, dated November 2014.	Planning/Building	Building Permit	

MITIGATION MEASURE	RESPONSIBLE PARTY	TIME FRAME	Page 4 of 5 COMPLETION DATE
Mitigation Measure #5: Mitigation to reduce tree impacts to a level that is less-than-significant will be in accordance with the Town of Windsor Zoning Ordinance and the recommendations of the Arborist Report prepared by John Meserve, Horticultural Associates, dated March 17, 2014 and the Supplemental Reports dated March 19, March 24, and April 1, 2015. The recommendations for tree protection and preservation during construction, including avoidance within the Tree Protection Zone outlined in the reports and on file in the Town of Windsor Planning Department shall be incorporated into the Improvement Plans for the development. Improvement plans shall be reviewed and written documentation provided, prior to submittal of plans to the Town of Windsor. **Monitoring Plan**: Conditions of approval for this project shall include tree protection notes on the Improvement Plans, grading plans, and/or Tree Protection Plans. Conditions of approval shall require review of any improvement, construction, grading, or ground disturbing plans by the project arborist, prior to submittal to the Town. In addition, conditions of approval will require on-site supervision by the project arborist and final review by the project arborist, prior to project acceptance/occupancy. The tree protection notes include tree protection fencing installed prior to any grading or construction activity at the site, notification to the project arborist of any construction activity within the TPZ, on-site-supervision, and a final arborist review, prior to any final clearances for the subdivision. No final approvals shall be made without authorization from the Planning Department to assure compliance with the Arborist report. Loss of preserved trees during construction shall be mitigated by the payment of in-lieu fees as provided for in the Town's Zoning Ordinance, prior to final acceptance of the subdivision improvements.	Planning/Building Planning	Prior to submittal of plans to Town – Arborist review and written recommendations shall be completed. During construction – on-site arborist supervision is required. Prior to acceptance of improvement – final arborist report required – Any preserved trees lost during construction shall pay the mitigation in-lieu fee prior to final review and acceptance of improvements by Planning.	

MITIGATION MEASURE	RESPONSIBLE PARTY	TIME FRAME	Page 5 of 5 COMPLETION DATE
Mitigation Measure # 6: Mitigation to reduce exterior noise levels will require the construction of a 8' barrier along the side and rear yard of Lots 88/89 and 6' barrier along the rear and side lots of Lots 85,86,87 and Lots 21, 38, 39, 56, 57 74, 75 and 84 along Victory Lane. Interior noise mitigation includes use of noise insulation features in the project design to reduce interior noise levels. Use of proper wall construction, window and door selections and installation of forced air-mechanical ventilation systems. Building construction shall be consistent with the recommendations in the Environmental Noise Assessment and Supplemental Assessment (dated January 15, 2015) identified above and on file in the Planning Department. **Monitoring Plan:** Building Plans shall include materials to reduce exterior and interior noise to within acceptable levels. Building Department will verify that the required materials are installed in the affected locations shown in the assessment identified. No additional noise insulation treatment would be required to meet Town and State interior noise standards	Planning/Building	Building Permit	